



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, December 10, 2018 - 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 November 26, 2018.

[Draft PC Work Session 11-26-18.pdf](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of November 26, 2018.

[Draft PC Minutes 11-26-18.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 Final Order and Findings for File No. 6-MISC-18-A: Affirming Director's Decision that Curb and Driveway Apron Replacement is Warranted and Required in Conjunction with the New Dwelling.**
[File 6-MISC-18-A Final Order and Findings.pdf](#)

5. PUBLIC HEARINGS

- 5.A File No. 4-NCU-18 (Continued Hearing for the Possible Adoption of Final Order and Findings): Surfside Mobile Village Addition of One Permanent Space.**
[File 4-NCU-18.pdf](#)
- 5.B File No. 4-CUP-18: Proposal by Sylvia Beach Hotel for approval of a request per Chapter 14.23.010 "Historic Building and Sites" for alterations to a historic building (Sylvia Beach Hotel).**
[File 4-CUP-18.pdf](#)
- 5.C File No. 5-Z-17 (Continued): Newport Short-Term Rental Ordinance Amendments (Draft Ordinance No. 2144).**
[File 5-Z-17.pdf](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

- 8.A Advertisement of the Planning Commission's Citizens Advisory Committee Vacancies.**
[Press Release - PC AC Vacancies.pdf](#)

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
November 26, 2018
5:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, and Jim Hanselman.

Planning Commissioners Present by Phone: Bill Branigan

PC Citizens Advisory Committee Members Absent: Dustin Capri (*excused*)

Public Members Present: Cathey Briggs, Cheryl Connell, Martha Winsor, Norm Ferber, Frank DeFilippis, Carla Perry, Jamie Michelle, Braulio Escobar, and Madeline Shannon.

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 5:00 p.m.
2. **Unfinished Business.**
- A. **Identify Preferred Alternatives Out of Newport Short-Term Rental Ordinance Amendments (Draft Ordinance No. 2144).** Patrick opened the meeting and asked for the PC's input on how to go through the review. Berman asked if the PC was in agreement to do a cap. Hardy thought the entire premise of caps was poor. She said they wouldn't improve the housing situation and they couldn't define the character of neighborhoods objectively. Until they got past those road blocks and they considered the entire city as a neighborhood, and that all the violations that were cited as big bad VRDs were happening all over Newport by long term citizens, they couldn't differentially enforce laws against citizens. Croteau stated he vehemently objected to Hardy's statement. Tokos suggested reviewing each issue one at a time.

Croteau stated he didn't think a cap addressed the present day problem and the PC needed to talk about where VRDs would be located before discussing a cap. He said there was rationale for eliminating VRDs in single family neighborhoods. Croteau felt that VRDs were intrusive commercial enterprises and were the same as hotels and motels. He stated he wasn't willing to talk about caps until there was a discussion on where they should be allowed. Franklin stated he had no problem a 5 percent cap because it helped people rest easy about the city turning into Cannon Beach or Lincoln City where there were 8-9 percent. It let them know what the max number of VRDs should be set at and allowed the city to manage inventory. Franklin felt the biggest issue they faced was enforcement and how to enforce problem VRDs. He wanted to see a program where if a property was rented out, the neighbors would have an email that they could send to, and then an email would go to the City for record, and then a text would go to the police department, the homeowner, and the person renting the property so everyone was on the same page right away. This would deter existing homeowners to confront bad renters and kept the conflict out of dealing with nuisances. Franklin felt renters who got a text would be more prone to fix the nuisance. Hardy said this often didn't work and reminded the PC that not everyone did texting. Croteau said enforcement was an issue but felt this was different from caps.

Hanselman said he was suspicious of caps. He noted that a large portion of the city was not attractive for VRDS. He noted there was a section in town that had 2,200 homes that only had five VRDs there and was clearly not a place for VRDs. Hanselman said five percent of the 5,500 homes in Newport would mean 250-300 homes. These would be located in neighborhoods attractive to VRDs owners and would put more pressure on residential neighborhoods to live with VRDs. He didn't think they could use five percent and they needed to decide where VRDs were appropriate and not. Hanselman said people bought in residential zones because of the lack of commercial, but now the city was allowing it in residential. He felt until they knew where VRDs belonged and not belonged, and how many VRDs the city could support, caps were difficult to determine.

Berman said the concern the public brought forth about adding a level of uncertainty for potential buyers was a disincentive for the housing market. He agreed that there needed to be an overlay of problem areas and they should set caps in those areas. There should be some way to slow down the growth of VRDs while supporting the tourist economy. Berman stated he didn't think VRDs should be allowed in R-1 and R-2 zones because they were commercial enterprises and incompatible with the nature of low density residential neighborhoods. He said the cap number should be left up to the Community Development Department and the City Council.

Branigan agreed with Hanselman and Berman. Before setting caps they needed to decide where to allow VRDs. He said the biggest influx of new residents in Newport were retirees and the city was becoming more of a retirement community. It was hard for retirees to settle in neighborhoods when there were a lot of VRDs in them.

Patrick said it looked like most of the PC was wanting to ban VRDs in R-1 and R-2 zones. He wanted to point out that there was a second home problem in Newport and every one of these VRDs would stay as second homes. He thought they would end up with a problem with empty neighborhoods and the areas where VRDs would be banned would become dead neighborhoods without anyone there. Patrick didn't think the City could enforce a ban in R-1 and R-2 zones. They could ban them, but there would still be VRDs in those zones. He noted he worked with VRD owners who only rented their units out to pay taxes. There would still be the same problems if they banned VRDs and would mean enforcement problems. If they took VRDs out of Nye Beach, they would end up with a dead neighborhood there. The area needed people in the neighborhood to survive. Patrick pointed out that this would affect property values and cause them to go down. He didn't want the PC to make a rule they wouldn't be able to enforce. Patrick stated he wasn't opposed to caps.

Croteau noted that prior to 2012 VRDs were allowed but greatly restricted. Now they were commercial enterprises that operated 24/7 in residential zones. He said they couldn't compare the two. Croteau didn't think any neighborhoods would become a ghost town. He stated the bulk of the citizens felt VRDs should be out of residential. Hanselman said second homes would become long term rentals and didn't take away from second homes. He said long term rentals would do well in Newport and thought they would be an option to help people to pay off their mortgages. There were ways to get people into second homes without creating vacation rentals. Hanselman said when homes weren't empty, there were neighbors there looking out for each other's homes. Patrick noted there wasn't a lot of neighbors in South Shore. Berman thought South Shore was different because the whole nature and feel of the place wasn't a neighborhood at all. He said the consideration of banning VRDs in Nye Beach had not been mentioned before. Patrick interjected that there were people who gave testimony that they were concerned about loading up Nye Beach with VRDs. Berman said spacing requirements would be done carefully enough so that this wouldn't happen. He didn't think there would be a whole lot of spaces opening up in Nye Beach for VRDs, and if someone wanted to do a VRD there and there was no spots, they would need to go somewhere else. Berman thought the whole argument that nobody wanted to build VRDs across the highway was true because all of the VRDs had been concentrated in areas that may or may not be appropriate, including R-1 and R-2 zones on the west side of the highway. If they made a conscious effort to spread them out, they would get takers east of the highway. Berman didn't see that the argument of 5 out of 2,200 housing units was relevant because when there was a choice of having an ocean view lot or a lot on such as San-Bay-O Drive, they would choose the ocean view first.

Tokos asked the PC how they wanted to work through the balance of policy options. Croteau asked if the public comment could happen now. Tokos said there wouldn't be enough time for the commission to complete its work if comment was taken on each issue. Branigan asked about the Nye Beach Overlay that Wendy Engler brought up. Tokos said the way it played in was if there were some legitimate concerns on where the VRDs would be concentrated if they limited VRDs in certain areas. If VRDs were prohibited in areas, they needed to think about what areas it pushed VRDs into. Patrick thought it looked like the PC would vote 4-3 to take VRDs out of R-1 zones. Tokos suggested the PC work through each option and see how far they got in the meeting.

Tokos opened the discussion on transferability provision alternatives. Berman agreed with the staff and said he would choose option B.3. Croteau said he didn't have a problem with a transfer of use but had a problem with transfer of a business license with a cap in place. It created problems and made things unfair. Croteau said the problem he had was if there was a cap and licenses transferred, it didn't allow for others on the waitlist to get a license. Hardy asked if a business license was currently automatically transferable or not. Tokos said they were not but there wasn't a cap. He said the question was whether or not the license under the cap was reserved for the new owner. A discussion ensued regarding the differences between businesses and VRDs. Franklin didn't like that on one hand they were saying to limit businesses and then on the other saying they could transfer a business license. He thought they would be encouraging the VRD homes to be bought by investors. Norm Ferber addressed the PC and said all of his VRD homes would need to be re-separated into three lots if this happened and he would incur costs. He noted his property was created as a motel. Hanselman said that B.1 was cut and dry and would make it easier for enforcement. He felt it was the best choice. Branigan agreed with Hardy in terms of business licenses not being automatically transferable and thought B.1 would be the best option. Patrick said it was safer with B.3 and thought B.1 would mean the city would run into issues when there was a cap. A discussion ensued regarding how Measure 49 applied. Tokos noted what he was hearing was the majority of the PC were leaning toward B.1.

Tokos opened the discussion on guest registry. The PC members were in general consensus with option 2.2.

Tokos opened the discussion on overlay zones. Hardy stated she objected to the staff recommendation because the character of neighborhoods had not been sufficiently and objectively defined, and didn't think the tie to needed housing had been proved because things were no different for over five decades. She didn't have a problem with putting commercial operations in commercial zones and restricting them in R-1 and R-2 zones, which should be residential. She said she favored Alternatives 3 or 4. Croteau said Alternatives 1 and 2 didn't address the problems. He opted for Alternative 3 and thought Alternative 4 should also be included because there was good rationale for this. He felt commercial operations were intrusive and shouldn't be in family neighborhoods. He wanted it noted that using median was a statistic that was meaningless without considering a mode and a range. Croteau said the median was the middle of a range of numbers and was being used to rationalize that houses were inappropriate for workforce housing because they cost too much. He noted how five of the houses in his neighborhood that were now VRDs were owned by people who were in the workforce before. Croteau didn't want to use median unless they knew what they were talking about. He noted he couldn't imagine the city paying someone \$100,000 a year to enforce VRDs in the overlay zones and felt it would be difficult to support. Croteau said he didn't support a cap alone and wanted Alternatives 3 and 4.

Franklin stated he wasn't happy with any of the maps. He felt certain neighborhoods needed VRDS because there was a certain desire for people to vacation there because there were views of the light house, bay, and ocean. He felt the maps put a blanket over Newport that didn't consider how the town looked and where the areas were. He felt the maps did an injustice to the great homes in Newport. Franklin felt there were some areas in residential zones that needed to restrict VRDS such as behind Fred Meyers. He felt the VRDs on Alternative 3 were a lot of units to lose and didn't like it. Hanselman asked what the problem was for losing VRDs. Franklin felt they were a huge part of the community for tourism and didn't like the idea of taking away from VRDs that were businesses that were operating without problems. He felt they should take away problem VRDs instead. Without having the license be transferable would mean their spot would open up for other VRDs. Alternative 3 meant VRDs would be pushed into the Bayfront and Nye Beach areas. Hanselman didn't agree with this and felt that residents needed to be able to say no to VRDs in their neighborhoods. Branigan said he liked Alternative 3 or 4. Branigan thought that if a lot of VRDs were removed and there was a demand for VRDs, maybe someone would build hotels instead. He didn't feel limiting VRDs would destroy the tourist industry. Berman said in 2012 he said that VRDs shouldn't be allowed in R-1 and R-2 zones but was outvoted. He strongly felt that R-1 and R-2 zones weren't appropriate for commercial ventures. He favored Alternative 4 but thought Alternative 3 would also be appropriate. Branigan reminded that the IRS designated VRDs as a business expense and since businesses weren't allowed in R-1 and R-2 zones this was another reason why they shouldn't be allowed. Patrick didn't like Alternatives 3 or 4 and thought both would open up a can of worms. He cautioned the PC to be wary of demonizing the out of towners who paid taxes in Newport who didn't use the services didn't live here. Hanselman said they used the services but maybe not the same as someone who lived here. Patrick noted that there were a lot of businesses run out of residences. He said enforcement was going to be a problem because VRDs would be run underground if they were restricted in residential. Hanselman didn't feel they were demonizing VRDs and said there was always going to be problems and work arounds. Tokos said that what he had heard was that a majority of the PC were in favor of Alternatives 3 or 4 and the minority view was to not have an Alternative map at all.

Tokos opened the discussion on the cap standards. Patrick felt before they started the discussion he wanted to know what they were taking a percentage of. Tokos said it was all dwelling units of public record in the city, which was about 5,500. Patrick stated that this didn't work if you took VRDs out of Alternatives 3 and 4, and if it wasn't proportional, it wasn't a workable concept. He said if they were going to do a percentage it had to be from the areas where VRDs were allowed. Hanselman agreed and felt 5,500 wasn't appropriated number to calculated from. He agreed that they needed to know where VRDs would be located first then thought it could be around 3 percent from there. Patrick felt if there was a percentage it would be from where they would be allowed, not the whole city. Tokos said if they were looking at limiting them to a small number of the housing units, then these percentages wouldn't make sense. Croteau said the problem with citywide percentages would be that they allowed more VRDs in different areas. Berman asked what the number of housing units were in Alternatives 3 and 4. Tokos said if the point was to have a cap wherever VRDs were permitted, then this was as far as the PC could go here. Patrick thought they should set the cap above where it was now because they would be adding houses and losing houses in different areas. A discussion ensued regarding how to set the cap numbers. Tokos said what he had heard was that there was a desire to set some form of a cap and would need to see the number of housing units for Alternatives 3 and 4. A discussion ensued regarding how caps would change the influx of VRDs in other areas, and discussed how caps would work with spacing and density restrictions in areas where they were allowed. Patrick felt Alternative 4 would be good with a straight cap and Alternative 3 would have caps for spacing/density. Tokos said for the PC members who favored Alternatives 3 and 4, what he heard was they wanted to know the number of housing units and were open to entertaining some sort of density limits.

Tokos opened the discussion on spacing standards next. He said if Alternative 4 was chosen, B.1 wasn't valid. Berman liked the street segment approach. Hanselman didn't like long street segments that allowed one every 5 and didn't think it was what the public was asking for. Tokos said most street segments were 5-7 homes and on a long street they would

be able to do a conditional use if there were over 10 on the street segment. Hardy was leaning towards B.1. Croteau was okay with B.1. Branigan, Berman and Franklin were also okay with B.1.

Tokos opened the discussion on occupancy next. Berman said C.2 was his preference and didn't see a justification for reducing what the city had now and asked what the rationale was. Tokos said there was a discussion about occupancy in terms of overnight and there was general agreement at the last ad-hoc meeting to peg maximum occupancy to occupancy of the unit at any time, not just overnight. There was a concern on overuse of VRDs and too many people showing up at the unit. There was also the party issue that came into play. Hardy said she limited the units she managed to two people per bedroom only. She was in favor of C.3. Franklin said he was leaning toward C.1. Berman reminded the PC that the ad-hoc work group eliminated the word "overnight" for occupancy. Hardy didn't think a total premise occupancy limit was reasonable otherwise they would have to put everyone with a back yard BBQ out of business. Croteau said the ad-hoc workgroup discussion came down to the point on whether they could prohibit things like weddings, reunions, and retreats. The discussion then came down to them not wanting to eliminate events but wanted to set a limit on occupancy on the premises. He wasn't willing to go against this judgement. Hanselman said the thought was they would look to find larger places to rent for these events and weren't looking to shut them out. Franklin suggested if someone wanted to have more people at one time, they could get a parking permit to allow more occupants. Tokos said that would need a whole different code structure. Franklin listed an example of how Sun River had the police drop off cones to designate the unit was having a special event and had permission. Hanselman said the Police Department couldn't do this and had a hard time covering enforcement. Branigan said he opted for overnight occupancy limited to two persons per bedroom, and limit during the day from 10 a.m.-5 p.m. and allow up to double the number of occupants on the property because people would be stopping by. Franklin thought the plus two argument would mean people would get pull out couches to sleep on. Croteau was fine with C.1 and thought anything else became cumbersome. He thought realistically neighbors were good about not calling in complaints unless they were real complaints. Patrick was fine with C.1. Tokos said what he heard was a majority favored C.1.

Tokos opened the discussion on parking standards. Berman didn't have a problem with E.2. Croteau was good with E.2. Hardy and Branigan agreed. Berman thought occupancy should say limited to two plus two or based on the parking standards. Tokos said both standards needed to be met before a VRD was licensed. Berman thought occupancy needed to say that lack of parking would reduce the occupancy. Hardy didn't think this was doable. Hanselman said it was doable because occupancy would be based on the lesser number of bedrooms or parking spaces. Tokos said there wasn't an explicit cross reference in the code, but VRDs needed to meet both standards.

Tokos opened the phase out standards next. Franklin was in favor of A.1. He felt they shouldn't take away from current VRDs and it was best to let them work their way out. Croteau opted for A.3. He wasn't sure with the five year phase out because of concerns with Measure 49. Croteau thought five years was excessive but thought if there was good evidence that five years was reasonable and defensible by documentation for other municipalities and case law, he was willing to listen. He was fine with A.3 but wasn't sure of the five years. Berman said the City Attorney said no less than five years. Croteau said he appreciated this but said it was a legal opinion without any documentation. Hanselman thought five years was too long and liked A.3. Berman liked A.3 and wanted it to be longer than five years. Tokos said the City Attorney said no less than five years and the ad-hoc workgroup suggested five years. Hanselman said other municipalities used three years and thought it was something to look further into and why the ad-hoc workgroup thought three years was fair. Franklin suggested that the five years could be given to certain areas like the C-2 and C-3 areas where VRDs would be continued to be allowed, and if in the R-1 and R-2 they went the direction of prohibiting VRDs, it would be immediately over for them. Tokos wanted to be clear that the five years came from ad-hoc workgroup and the City Attorney said no less than five years. The City Attorney didn't offer an opinion on what the number should be, just that it should be no less than five years. Hanselman said the ad-hoc workgroup didn't have consensus, and other municipalities did three years. He imagined these municipalities did their work on determining this and thought it needed to be looked into more. Franklin asked what kind of timeframe they gave in Bend. Tokos didn't know. Croteau thought it was three years and why he wanted documentation. Tokos said what he heard was a majority was in favor of A.3. Hardy said she was in favor of A.2. Berman wanted to know if there were any Measure 49 cases filed in the state based on this and if so, were they successful. Branigan stated he opted for A.3 and thought the five years the ad-hoc workgroup wanted was what they should follow.

Tokos said what he was hearing was that on the December 10th public hearing the PC would be focusing on Alternatives 3 and 4, were interested in entertaining density limits for the remaining areas where VRDs were permitted with a housing unit number in those areas, and then the rest of the items would map out explicitly. The PC was in general agreement on this. Tokos asked if there were any other provisions they wanted to discuss. Hanselman said when proximity rules were written there needed to be a rule on which VRD would be phased out. The PC reminded him that A.3 stated this. Berman said that under penalties, he would hate to see renters miss out on their reservations if on the second penalty the owner could not rent for 30 days. He didn't want to see renters lose deposits because of bad owners and felt this was problematic. Tokos said it was intended as a disincentive for someone not following the rules. Berman said there was

several comments on liability insurance requirements. He said the city didn't require liability insurance for someone to run businesses in general and there was comments about there needing to be a million dollar policy. Berman asked why there was an example listed on the sale and transfer and didn't think an example was needed because they didn't list an example anywhere else. Patrick said they needed to add something on the third party enforcement and thought it could be a line item for the next meeting. Franklin wanted to know what the third party would do for enforcement.

3. **Public Comment.**

Martha Windsor addressed the PC and pointed out that when looking at Alternative Maps 3 versus 4, currently in Nye Beach the C-2 zones had 21 percent VRDs and the R-4 zones were about 7 percent. She said there were serious issues with decreasing the availability in areas when removing VRDs. Nye Beach was already at maximum levels.

Carla Perry addressed the PC and asked what kind of enforcement the city would go through to ensure that the VRDs who were phased out were no longer operating. Berman said this would tie into enforcement and the third party vendors. Perry was concerned because there were already VRDs operating without licenses. Tokos said it would be done by code enforcement and there would be a notice in advance that they would be doing a phase out. If someone didn't stop renting, it would move to a civil infraction. Perry asked if it needed to be spelled out in the code. Tokos said it was in the code under civil infractions and how they would be dealt with. Franklin asked about people operating VRDs underground. Tokos said if they were advertising through an intermediary there would be room taxes to notify the city. In rare instances where they had a bartering system, these VRDs would be dealt with case by case.

Patrick said the five years phase out should also include change of ownership to be phased out immediately.

Wendy Engler addressed the PC and asked if the PC looked at the map for Nye Beach that Tokos gave her. She asked the PC to discuss this before the adoption of the ordinance. She didn't want the city to get into having to do another Measure 49 mailing because they accidentally had the density at 50 percent in Nye Beach. Tokos said the PC had a copy of the map in their packets. What they heard was that the interest was in some sort of cap within areas where VRDs were permissible and spacing would apply strictly in the R-1 and R-2 zones. Engler asked that the PC consider Nye Beach and felt the area was being ignored. She said the PC was deciding how they were shaping Newport and wanted thought to be taken on how Nye Beach needed a refinement plan. Engler wanted the PC to get more specific for Nye Beach before making a decision. Croteau thought this had to be done with consideration on how Nye Beach was going to look after all everything was done. Hanselman thought it needed to be revisited. He felt the parking in the area was an issue and noted VRDs in the area that received conditional use permits for relief of parking because of the parking district.

Pam McElroy addressed the PC and said she was in favor of the occupancy policy alternatives with C.1 being forwarded. She thought "at any time" needed to be added to the C.1 statement.

Jamie Michelle addressed the PC and said she pushed for the words "at all time" and if they restricted to the licensed occupancy, they would impact the quality of living. She said rather than restricting VRDs city wide, if there were regulations with teeth it would weed out the bad players over time. Michelle thought the PC should consider putting rules in place with strong teeth and then reevaluate in a couple of years. She reminded the PC that there were public members who said they had VRDs next to them who were delightful. She said if the affordable housing was a big deal, take a portion of license fees and taxes and put them toward a fund to deal with the housing issue.

4. **New Business.** No new business.

5. **Director's Comments.** No Director comments.

6. **Adjournment.** Having no further discussion, the meeting adjourned at 7:03 p.m.

Respectfully submitted,

Sherrri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
November 26, 2018

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Mike Franklin, and Jim Hanselman.

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 7:05 p.m. On roll call, Commissioners Hardy, Berman, Croteau, Patrick, Franklin, and Hanselman were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of November 13, 2018.

MOTION was made by Commissioner Berman, seconded by Commissioner Croteau to approve the Planning Commission regular session meeting minutes of November 13, 2018 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** Cheryl Connell addressed the PC. She spoke to the PC about the night's work session meeting concerning short-term rentals. She stated she was a member of the Ad-Hoc Workgroup and had concerns about allowing conditional uses for parking relief. She felt allowing a conditional use for parking wasn't in the best interest of the proposed ordinance. Connell said that for the first time, under the new ordinance, a parking space would be defined. She was concerned that since this was being defined, there might be more requests to vary from the requirement. She felt it was important to not include a conditional use for parking in the ordinance.

4. **Action Items.**

A. **File No. 2-SUB-18/4-GP-18.**

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Final Order and Findings for File 2-SUB-18/4-GP-18 as presented with conditions. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:10 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. Berman, Croteau, 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 No. 1-MISC-18-A.**

Tokos gave his staff report. Hardy asked with respect to doing curbing in piece meal, would this look unfortunate if they were done over time. Tokos said the city had standards for curb work and this should be standard. Berman asked if a non-remonstrance agreement was signed for the sidewalks. Tokos said this was an option to the owner should they proceed. Berman asked if it was the city's intent to require a new sewer as a part of this appeal. Tokos said it wasn't a part of this appeal because it couldn't be appealed. The line would have to be slip lined or have a replacement of the sewer lateral. Croteau said there was new construction on 5th Street and asked if there were provisions made there for curbing. Tokos said the property immediately to the west was required to install a curb on the south side of 5th Street. Franklin asked why 607 SW 5th Street wasn't required to install curbs. Tokos said he wasn't involved with their assessment and it was done by the Public Works Department. All he could say was there was a determination they

didn't need the requirement as part of the plan review process. Hardy noted the comment about the lot being redeveloped, although it had existing infrastructure and they were replacing an existing structure. She asked to have "redeveloped" defined. Tokos said they had to look at this when doing permitted development and it had to be a rational nexus and proportional. In this case, a new manufactured home was being put in and was considered new development which caused the city to have to look at these standards. Hanselman asked if Cole was also appealing the sewer improvements. Tokos said no, she couldn't. The curb and apron fell into the right-of-way and considered exactions and fell under the transportation standards. Since sewer fell under the health and safety standards, and city engineers determined that the line had root damage and couldn't be reattached to, it needed to be slip lined or replaced and not a part of this appeal. Berman asked if there were general guidelines for rough proportionality. Tokos said it was analyzed on a case by case basis.

Proponents: Patricia Lyn Cole gave a handout to the PC. She noted she had replaced the sewer line for \$10,000 and had to take out a loan to do this. Cole state she had lived there for 18 years and the city was now withholding an occupancy until the sewer was done. She was on a fixed income and was being made to put in a curb when there weren't any curbs within a 1,000 feet of her property.

Cole referenced Exhibit "A" in the handout she presented to the PC and said it wasn't consistent with the Newport Municipal Code and asked how it was roughly propositional as nothing had changed in 68 years. She referenced conclusion 6 of the staff report and stated that Standard of Chapter 13.05 did not apply to her lot because it was existing. She stated when she purchased the property, the previous owners had installed a timber boarder that wasn't intended to be a curb. Cole said the curb across from her property had not been done. She said there wasn't a storm drain system on 5th Street. Cole thought that if she put in a curb, this would create a trench and ruin the integrity of the street. She asked the PC to have some common sense in the matter and didn't know why she was being forced to put in an unneeded curb.

Croteau asked how much the new construction costs were. Cole said around \$130,000. Franklin asked what the square footage of the new home was compared to the old home. Cole said the new home was 1,336 square feet and the old home was 2,100 square feet. Berman asked if she considered the timber to be decorative. Cole said yes, it was part of the landscaping and was never meant to be a curb.

Opponents: None were heard.

Patrick closed the hearing at 7:32pm. Hanselman said this was a set of unfortunate circumstances yet the city code was specific on what the responsibilities were as a home owner. He did inspect the timber curb and saw why the city thought it was a curb. Hanselman noted he didn't look at all the homes along the street and wished he had. He said the municipal code stated it was something they could require and said he would have to go with the code.

Franklin understood why the city required the improvements. He was torn with the fact that down the street on Fogarty and 5th Street they had everything curbed and wondered why one new replacement hadn't been required. Franklin was in favor of not requiring the curb.

Croteau thought the decision was in sensible bounds and agreed that the curb be put in.

Berman asked Tim Gross to come forward and speak to the PC. He asked Gross how this curb and driveway would enhance public safety. Gross stated he was primarily concerned about the drainage on the street and noted that all of the properties to the east had curbs in some manner and there was a catch basin at the bottom of the street. He said the reason there wasn't a curb across the street was because it got missed as part of the review process. Whether or not the timber was put in as a curb, it was functioning as a curb. Curbs were needed for the vantage of the street. Berman said he was torn on the decision. He said he heard Cole's comments on asking the PC to have common sense and noted the PC was held to how the ordinance was applied. Berman said unfortunately, the city requirements were done properly and he couldn't uphold the appeal.

Hardy had a problem with a piecemeal approach for improvements. She thought whether it was intentional or not, the other property neglect was unfortunate. She was in favor of supporting the appeal and understood there was a rule of law which was scattershot at best some times.

Patrick said he was inclined to enforce the requirement because of the different properties he had to do these improvement on. He said he would like to be accommodating somehow but if they didn't enforce this, it would catch

up with the city. Patrick noted if there were things deteriorating in the right-of-way it was the property owner's response to take care of it. He said he wanted a compromise but didn't know that they could do anything.

Franklin asked what happened to the property on the corner that was missed for curbs. Tokos said in that case it was missed, the building was finished, and there wasn't anything the city could do.

Patrick asked if they could give Cole some time to get the curbs done. Tokos said the occupancy was the ability to make sure improvements would be made.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to deny the appeal for File 6-MISC-18-A. The motion carried in a 3-2 voice vote. Franklin and Hardy were a nay. Patrick abstained.

B. File No. 4-MCU-18.

Tokos gave his staff report. Berman asked about the diagram of existing spaces and asked where space 32 would be located. Tokos said on "Attachment D" it showed spaces 29, 30 & 31 & 32. On "Attachment F" the park models at spaces 29, 30 & 31 would accommodate the four park models and their parking, by reconfiguring the spaces.

Proponents: Dennis Bartoldus and Doug Fitts addressed the PC. Bartoldus said this had been in front of the PC about five years before when they applied to gain approval for the park. He said they agreed with the staff analysis. Bartoldus stated that since there had been redesigns of park models since the last hearing, the applicant found they could get one additional space in the area. He noted this would be affordable housing for seniors.

Fitts said the park models didn't come out when they did their first non-conforming application and why there were reconfiguring to add a space. Berman said he did a site visit and noted that at the northeast corner there were RVs and creative sewer lines. He noted the one line supported by a 2x4 and asked if it could be a serious problem. Fitts said a month before a city water line burst, and water ran for a while and eroded the bank. They put in a 10 inch nylon line and added the timbers in to support it. The other line was for the RV lines that were supported by steel supports. Fitts noted the bad line was the city line.

Hanselman noted his concerns about the access road for the two units and asked if it had clearance for the Fire Department. Fitts said the Fire Department could reach everything from the street side and wouldn't take the truck into the park. Hanselman was concerned about the Fire Chief being okay with the access. Bartoldus said the other two units were the distance of a driveway from the house away from the main road. Tokos noted the notice was shared with the Fire Department and they didn't have any comments.

Opponents: Cristi Fritz addressed the PC and asked that the record be held open for seven days because of errors in the notice and the staff report. She said the notice that originally went out five years ago it included that they applicant wanted to make their property on NW 5th Street a part of the park, which it wasn't, and the notice for this hearing still eluded to this. She wanted it removed to make it clear that NW 5th Street was not a part of the property. Patrick acknowledged that the record would be held open for seven days and asked for clarification on the errors. Tokos said the notice inadvertently referenced a tax lot not owned by the applicant, but the staff report was correct. He said he wasn't aware of the issues with NW 5th Street and said the part of the property near NW 5th Street wasn't a part of the park. Tokos asked if Fritz's concern was that this should be left out. Fritz said yes, but said when she spoke to him about his staff report he said NW 5th Street would not be a part of the staff report and would define the boundary of the subject park as defined in 2013, but wasn't in the staff report presented for the hearing. Tokos said the intent was to make sure this would include any expansion that was approved in 2013 other than this additional unit. Fritz wanted to make sure this was clarified. Tokos said the PC could clarify this by motion and he would prepare findings and a final order with this clarified. He said Fritz would get a copy of this in advance. Fritz asked if the initial application that included City of Newport land in it would be removed. Tokos said this was correct and noted it was taken out of the staff report.

Berman said "Attachment F" submitted by the applicant showed the property going up to NW 5th Street and asked if the diagram should be resubmitted because it was part of the application. Tokos said they could make the decision explicit, with respect to the property, what was part of the park. Berman was concerned that "Attachments F and G" weren't consistent with one another. Tokos said the final order would be explicit on what tax lots the decision applied to and that would be what the decision would be bound to by the final order. Berman had concerns about making a decision on something he hadn't seen. Tokos said what the park boundary was now was what the park would be.

“Attachment G” showed the perimeter of boundary of the park and “Attachment F” was prepared when they made the original application in 2013 and was why it was included in the materials.

Rebuttal: Bartoldus said on the application it didn't include up to NW 5th Street. The park started in the lower area even though Fitts owned the property. Fitts said when the city drew the map on the notice the red line drawings on the notice weren't correct. Tokos said this was not what they were looking at and was a different map. They were looking at the areal maps as part of the staff report. Fitts then clarified what portion of the property was included in the park.

Tokos said the PC would have to leave the record open and not make a motion. Fritz said she was okay with extending the record and wanted to see the final order and findings before it was recorded. Franklin asked for the correct legal description of lots. Tokos said this was part of the staff report. Fritz said the application had inaccuracies and concerned there was ambiguity. If there was a way to see it and object to it, she was okay with this. Croteau asked if they included a motion with a need to correct the legal description, would that be okay with her. Fritz said she would want clarification between all four documents. Tokos said the perimeter of the park was as it was approved in 2013 with an additional space being added. The final order and findings would show the limitations of the boundary of the park. Fritz said it was okay as long as there was time to review this. Tokos said it would be available by Friday before hearing. Fritz said it would be hard to review but she would do her best to review.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to continue the public hearing for File 4-NCU-18 to the December 10, 2018 Planning Commission meeting. The motion carried unanimously in a voice vote.

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

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

8. **Director Comments.** Tokos noted that the Bill Lund withdrew his geological permit and was why it wasn't a part of the night's hearings. The city could expect a more robust study to come in from him in the coming months. Berman noted the County had posted a street vacation for the street at that location.

Tokos said in reference to Patricia Lyn Cole's appeal, the city had worked with her to connect her with Willamette Neighborhood Housing to get funds which would leverage the full value of her lot to get the sewer line installed. She could do this for the curb work as well. He said he didn't think this was appropriate to bring up at the hearing. Croteau asked about proportionality and if this was reasonable. Tokos said this would, in his opinion, be upheld if it ever went to court. Franklin asked if LIDs would be a good source to complete streets. Tokos said they could but the challenge was to get enough people to participate, getting the report prepared, and then having the city do the work. It would be a challenge to get organized.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:21 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 NO. 6-MISC-18-A, APPEAL OF THE DIRECTOR'S)
DECISION REQUIRING THAT A TIMBER CURB AND) FINAL
DRIVEWAY APRON BE REPLACED IN CONJUNCTION WITH) ORDER
WITH A REPLACEMENT DWELLING (LYNN COLE, OWNER))**

Order denying a request for relief from City requirements that a timber curb and driveway apron be replaced along a street frontage in conjunction with a replacement dwelling. The property is located at 640 SE 5th Street (Assessor's Map 11-11-08-AD, Tax Lot 7800).

WHEREAS:

- 1.) The Planning Commission has duly accepted the appeal of the Newport Community Development Director's decision filed consistent with the Newport Municipal Code (NMC); and
- 2.) The Planning Commission has duly reviewed the request and has given proper and timely notice to affected property owners; and
- 3.) At the public hearing on said appeal, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Planning Commission concluded that the Director was correct in finding that the requirement that the owner replace the timber curb and driveway apron in conjunction with the replacement dwelling is consistent with the requirements of the Newport Municipal Code and is roughly proportional to the impact the new development will have on public facilities.

THEREFORE, LET IT BE RESOLVED by the Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support denial of the applicant's request for relief from these public improvement requirements.

BASED UPON THE ABOVE, the Planning Commission determines that the requirement that the curb and driveway apron be replaced is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 10th day of December 2018.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File # 6-MISC-18-A

FINDINGS OF FACT

1. Patricia Lynn Cole submitted an application on August 24, 2018 seeking relief from a requirement that she replace existing timber curb with concrete curb along her street frontage in conjunction with a replacement dwelling.
2. The property is located at 640 SE 5th Street (Assessor's Map 11-11-08-AD, Tax Lot 7800).
3. The staff decision reports the following facts in connection with the application:
 - A. Plan Designation: Residential.
 - B. Zone Designation: R-2/"Medium Density Single Family Residential."
 - C. Surrounding Land Uses: Single family homes.
 - D. Topography and Vegetation: The property is gradually sloped where the replacement home has been placed adjacent to SE 5th Street and drops off steeply between the home and SE Bay Blvd.
 - E. Existing Structures: Manufactured dwelling has been placed but is not connected to services. The home is a replacement for a dwelling that burned down October of 2017.
 - F. Utilities: Water and sewer service is available to the site.
 - G. Development Constraints: None known.
 - H. Past Land Use Actions: None known.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on August 27, 2018 to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., September 11, 2018. Comments were received from Tim Gross, Public Works Director, and Neal and Jana Rea, who own the home at 607 SE 5th Street.
5. The following attachments to the staff decision are included in the case record and are incorporated herein as part of this decision:
 - Attachment "A" – Application Form
 - Attachment "B" – County Assessor Information
 - Attachment "C" – Applicant's Narrative and Supporting Emails
 - Attachment "D" – Building Permit
 - Attachment "E" – Cost Estimates for Improvements
 - Attachment "F" – Public Notice

- Attachment "G" – Email from Tim Gross, Public Works Director, dated 8/27/18
- Attachment "H" – Letter from Neal and Jana Rea, dated 9/10/18
- Attachment "I" – Emails from Lynn Cole Responding to Rea Letter, dated 9/14/18
- Attachment "J" – Diagram of Street Design Standards, Newport TSP
- Attachment "K" – Topographic Map of the Property

6. Newport Municipal Code (NMC) Section 14.44.050(A)(4) requires that a substandard street adjacent to a parcel that is being developed be brought into conformance with the city street standards listed in the subdivision ordinance. Development may only proceed if the required public facilities are in place or guaranteed. The city may accept a future improvement guarantee, such as a non-remonstrance agreement, if the developed condition of adjacent properties is such that it is unlikely the street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, improve street safety, capacity, or pedestrian circulation (NMC 14.44.050(B)).

7. The subdivision ordinance is contained in Chapter 13.05 of the Newport Municipal Code. Section 13.05.015 sets out the design requirements for streets. For streets identified in the Newport Transportation System Plan as “minor streets,” such as SE 5th Street, the minimum required roadway width is 36-feet, which is sufficient to accommodate two, 10-foot travel lanes with 8-feet of parallel parking to either side. Curb gutter and sidewalk is also required (NMC 13.05.015(H)). A diagram illustrating the street design standards for a local road is included as Attachment “J” to this decision.

8. In circumstances where improvements are not voluntarily accepted by an applicant, the city must establish that the work it is requesting is roughly proportional to the impact of the development on public facilities (NMC 14.44.040). Ms. Cole’s application serves as evidence that she has not voluntarily accepted that the improvements are needed, as she argues that the required curb work is unnecessary because the timbers are in good condition, and that it is unfair to require her to install new curb when similarly situated properties in the area have not been required to install curb (Attachment “C”). Accordingly, this decision includes the required rough proportionality findings.

9. A written estimate submitted by Ms. Cole shows that the cost of installing the concrete curb along here property frontage is \$4,650. A separate estimate for a new concrete driveway apron is \$3,250. An estimate was provided as well for lining the private sewer lateral to the new home. That cost is listed as \$10,000 (Attachment “E”).

10. In response to the public notice, Public Works Director Tim Gross states that the timber curb is failing at this address due to dry rot, that he inspected the timbers himself, and that the development standards require the installation of curb in this circumstance. He further notes that the requirement for curb is consistent with how other development and redevelopment has been treated and is needed at this particular location because of the steep grade of the road, which is probably why the timber curb was installed in the first place (Attachment “G”).

11. The letter from Neal and Jana Rea notes that they paid for the improvement of all required public facilities at the time they built a replacement home in 2015 and that if development approval requires concrete curb in Ms. Cole’s case then she should have to complete and pay for the required improvements (Attachment “H”).

12. Ms. Cole replied to the letter from Neal and Jana Rea, indicating that they should have installed curb on their side of SE 5th Street (Attachment "I").

13. On October 12, 2018, the Community Development Director issued a Final Order and Findings of Fact, which found the requirement that the curb and driveway apron be replaced to be in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport. The decision was subject to a 15 day appeal period, as provided by NMC 14.52.100. The deadline for filing an appeal was October 29, 2018.

14. A timely appeal of the Director's decision was filed by Ms. Cole on October 23, 2018. Specific grounds Ms. Cole is relying upon as a basis for the appeal include (a) that the city has not consistently applied its rules that set out street improvement requirements, (b) that the reference in NMC Chapter 14.44 to corresponding requirements in the subdivision code (i.e. Chapter 13.05) means that the improvement requirement applies to subdivisions and she is not seeking to subdivide her lot, (c) that the standards apply only to new lots, and (d) that the curb and apron work will not improve street safety.

15. The Newport Municipal Code requires that an appeal of a land use decision that was made without a public hearing be conducted as a de-novo proceeding (NMC 14.52.100(B)(1)). The City of Newport Planning Commission is the approval authority for an appeal of the Community Development Director's decision (NMC 14.52.030(B)(13)).

16. A hearing date for the appeal was scheduled for November 26, 2018. Direct mail notice of the hearing was provided to the appellant and adjoining property owners within 200 feet of the subject site (NMC 14.52.100(C)). Notice of the hearing was also published in the Newport News-Times on November 16, 2018.

17. A copy of the record was provided to the Newport Planning Commission and was available at the public hearing. At the hearing, the Commission read a prepared statement advising those in attendance of statutory requirements for the conduct of quasi-judicial hearings as outlined on ORS 197.763. The Commission received the Community Development Director's staff report and took testimony from appellant and City Engineer Tim Gross. No other parties were present at the hearing. The minutes of the November 26, 2018 hearing are hereby incorporated by reference. The Community Development Director's decision, appeal, staff response to the appeal, and appellant's testimony submitted at the hearing, are likewise incorporated by reference into the findings.

18. At the end of the hearing, the Commission closed the record, deliberated, and approved a motion to affirm the Community Development Director's decision, with the expectation that staff would present findings of fact and a final order to that effect for consideration by the Commission at its December 10, 2018 meeting.

CONCLUSION

1. The Newport Municipal Code requires frontage improvements in connection with development or redevelopment of a parcel and offers only limited circumstances when those improvements can be deferred into the future via a non-remonstrance agreement. SE 5th Street does not possess the 36-foot of street width required of a local street nor does it have sidewalk. This is true of the entire stretch of the roadway and is the reason why Ms. Cole is not being asked to construct those improvements at

this time. Instead, the improvements will be deferred to a non-remonstrance agreement because it is unlikely such improvements would be made in the foreseeable future, which is one of the standards the city may rely upon to defer public improvements (ref: NMC 14.44.050(B)).

2. Curbs; however, do exist in various forms along the south side of SE 5th Street to channel run-off from roads and homes into a structured storm drainage system. The curbs are constructed out of concrete, asphalt, and in Ms. Cole's case treated timber. This appears to be largely a function of when the curbs were installed. The same goes for driveway aprons. In her appeal, Ms. Cole asserts that the required curb and apron will not improve street safety. Staff disagrees, pointing out that curb and driveway aprons help to maintain the integrity of the road, minimizing edge wear and limiting the erosive impacts of storm run-off. City Engineer Tim Gross pointed out that the principal benefit of curb on the south side of SE 5th Street is to control storm run-off. Because the improvements exist on adjoining properties, and there is a safety benefit associated with their installation, the Commission concludes that the city cannot defer the improvements into the future via a non-remonstrance agreement in the same manner as the street widening and sidewalk improvements.

3. Residential properties, including the property owned by Ms. Cole, rely upon public streets as a means of access and in some cases as a collection point for storm run-off. They similarly place demands on those streets and without viable street access the properties would not be useable. Therefore, the Commission agrees with staff that there is a rationale nexus (i.e. "connection") between the curb and driveway apron street improvements and the replacement home.

4. Curb and driveway aprons wear down and must be replaced just as homes do. Assessment records show that the residence Ms. Cole is replacing was constructed in 1950 (Attachment "B"). It is not unreasonable to expect that the driveway apron would need to be replaced due to normal wear and tear. Similarly, this also suggests that the treated timber has been in place for an extended period of time. Tim Gross is both the Public Works Director and City Engineer. He is uniquely qualified to determine when a curb has worn down to the point that it must be replaced and it is reasonable and appropriate for the City to rely upon his judgement in this case.

5. In her appeal, Ms. Cole argues that frontage improvement requirements only apply to new lots; however, the Commission cannot concur given the express language of NMC Chapter 14.44, which sets out the city's transportation improvement requirements. NMC 14.44.050(A)(4) states "*Substandard streets adjacent to existing lots and parcels shall be brought into conformance with the standards of Chapter 13.05.*" The code cross-references to street standards listed in Chapter 13.05 to avoid replicating them in Chapter 14.44. It is clear in the code that the standards apply to existing lots and parcels, such as the lot owned by Ms. Cole. Chapter 14.44.050(A) further notes: "*Development Standards. The following standards shall be met for all new uses and developments:*". The replacement dwelling, while not a new use, is development, and the Commission notes that Conclusion No. 4 (above) provides a clear explanation as to why street improvement requirements apply to development on existing lots.

6. Ms. Cole provided a value of \$66,500 for the manufactured dwelling. In reviewing the accompanying quote, it does not appear that the figure included site preparation and placement costs, which would be an additional expense. It is not uncommon for public improvements to be a significant project cost. In this case, when weighed only against the cost Ms. Cole paid to purchase the dwelling, the expense of the curb and apron work is about 10 percent of the overall project cost. Considering the lifecycle of the new dwelling, which could be as much as 50-60 years, and the


impact of associated vehicle traffic to and from the dwelling over that same period of time, the Commission concludes that the requirement that the curb and driveway apron be installed is roughly proportional to the impact of the development on the public facilities.

7. In her application and appeal, Ms. Cole points out that persons developing other properties in the area weren't required to replace or install curbs when they built new dwellings, including the property at 607 SE 5th Street. Her view is that if the City did not apply the improvement standard correctly in one case, it should be prohibited from applying it in others. While the Commission is sympathetic to Ms. Cole's concern about fair treatment, it is also cognizant of the fact that it must render decisions in a manner consistent with the City's land use regulations. The staff decision lists a number of reasons why the types of frontage improvements the city requires may vary from site to site. In this case, City Engineer Tim Gross indicated that his staff missed the curb improvement requirement for the property cited by appellant at 607 SE 5th Street. Because a building permit and occupancy has been granted for that residence, it is not possible for the city to retroactively require that owner install the curb. Failure of a city staff person to properly identify a frontage improvement requirement is not a valid basis for setting aside the same frontage improvement requirement in future cases, as those requirements are mandated in the Municipal Code. Neither staff nor the Commission has authority to ignore code provisions. The standards the City must follow when determining when public improvements are needed are listed in the Director's decision, and referenced herein, and they establish that the subject request for curb and driveway apron improvements are consistent with Municipal Code requirements.

8. The application includes cost information for a sewer lateral. That is a private service to the home, as opposed to a public improvement the City ultimately owns and maintains and is; therefore, not an exaction that is subject to rough proportionality findings. Consideration of whether or not the City is or is not justified in requiring the private lateral be replaced is not a part of this decision.

For the reasons listed above, the request for relief from the requirement that concrete curb and driveway apron improvements be installed in conjunction with the replacement home at 640 SE 5th Street is **DENIED**.

Memorandum

To: Planning Commission
From: Derrick I. Tokos, AICP, Community Development Director 
Date: December 6, 2018
Re: File No. 4-NCU-18 - Continued Hearing on Surfside Mobile Village Expansion

On November 26, 2018, the Planning Commission held a public hearing on the above referenced application, which seeks approval for one additional RV space on the portion of the property identified as Tax Lot 10700. Access to the RV space would occur via NW 3rd Street.

At the hearing, Christi Fritz testified that the staff report and attachments made reference to the mobile home park extending north to NW 5th Street, even though the lots adjacent to NW 5th Street are not a part of the park. This was not the intent, and the Commission agreed to continue the hearing to December 10, 2018 so that a final order and findings could be prepared that make it clear the lots on the south side of NW 5th are not a part of the park and are outside the scope of the Commission's decision. Staff agreed to provide Ms. Fritz with a copy of the final order and findings prior to the hearing so that she could review the documents.

Enclosed is a draft final order and findings for the Commission's review. A copy of the documents has also been provided to Ms. Fritz. As this is a continued hearing, the Commission should reopen the hearing for public comment before deliberating on the final order and findings.

Attachments

EXHIBIT "A"

Case File # 4-NCU-18

FINDINGS OF FACT

1. Douglas & Verna Fitts (Surfside Mobile Village) (Dennis Bartoldus, authorized representative) submitted an application on October 5, 2018, per Chapter 14.32 ("Nonconforming Uses, Lots, and Structures") of the Newport Municipal Code, for the alteration and expansion of a nonconforming use. The property is currently being used as a mobile home park (Surfside Mobile Village). Specifically, the applicants are requesting to be allowed to have 24 permanent spaces and 8 RV spaces. This is an increase of one RV space to accommodate an additional "park model" home on the property.

2. The subject property is located at 392 NW 3rd Street (Lincoln County Assessor's Tax Map 11-11-05-CD, Tax Lots 10500, 10501, 10600, 10700, and 10800). In sum, the properties total to approximately 2.22 acres in size.

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

- a. Plan Designation: High Density Residential.
- b. Zone Designation: R-4 / "High Density Multi-Family Residential".
- c. Surrounding Land Uses: A mix of single- and multi-family residential, commercial, and public uses.
- d. Topography and Vegetation: The subject property is gradually sloped. Steeper terrain existed along the west and north side of Tax Lot 10700; however, that area has been leveled out through the use of retaining walls. On-site vegetation is largely landscaping, with the bulk of the property having been cleared for the mobile spaces.
- e. Existing Structures: The property contains the Surfside Mobile Village consisting of 31 sites (24 permanent residences and 7 for recreational vehicles, including park models), a restroom/laundromat, and an office/storage facility.
- f. Utilities: All are available to the site.
- g. Development Constraints: None known.
- h. Past Land Use Actions: File No. 4-CUP-73 – authorized expansion of the Glenwood Cottages and Trailer Park to 18 trailer parking spaces. Approved February 12, 1973. File No. 2-NCU-13 authorized the mobile home park and expansion to 31 units on November 25, 2013.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on November 2, 2018, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m. November 26, 2018, or be submitted in person at the hearing. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on November 7, 2018. No comments were received in response to the notice.

5. A public hearing was held on November 26, 2018, and continued to December 10, 2018. At the hearing, the Planning Commission received the staff report and allowed for testimony on the request. The minutes of the November 26, 2018, and the December 10, 2018, meetings 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" – Legal description of the property
- Attachment "C" – Letter from Dennis Bartoldus, dated 10/4/18
- Attachment "D" – Site plan labeled “Surfside Annex,” dated September 2018
- Attachment "E" – Utility plan for Surfside Annex
- Attachment "F" – Surfside Mobile Village approved spaces (from File 2-NCU-13)
- Attachment "G" – 2018 aerial image of the park
- Attachment "H" – List of photos with index
- Attachment "I" – Public hearing notice

6. At the public hearing on November 26, 2018, testimony was received from:

- Dennis Bartoldus, PO Box 1510, Newport, OR 97365, representing Mr. & Mrs. Fitts, speaking in support of the application.
- Doug Fitts, 392 NW 3rd St, Newport, OR 97365, speaking in support of the application.
- Christi Fritz, P.O. Box 112, Newport, OR 97365, expressing concerns that the staff report included inappropriate references to the lots on the south side of NW 5th Street being a part of the mobile home park.

7. Pursuant to Section 14.32.070/“Alteration, Expansion, or Replacement of Nonconforming Uses and Structures” of the Newport Municipal Code, after verification of the status of a nonconforming use pursuant to Subsection 14.32.060, 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.

8. **Verification of Status of Nonconforming Use or Structure:** Pursuant to NMC Section 14.32.060, upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. 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 applicants 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 nonconforming 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 nonconforming 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. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

9. **Applicable Criteria (Section 14.32.070)**: After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, 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. 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.

CONCLUSIONS

In order to grant the permit, the Planning Commission must find that the applicants have provided a complete application, that there is substantial evidence that the Commission can rely upon to verify the nature and extent of the existing nonconformity, and that the expansion will not result in a greater adverse impact on the neighborhood considering the criteria listed under NMC 14.32.070.

1. The nature and extent of the existing non-conforming use was established in 2013 with the City's approval of the park on the subject property at 31 units (Attachment "F"). While Attachment

"F" shows the park extending north to NW 5th Street, the applicant withdrew the lots they own abutting that street from consideration as part of the park. An aerial image from 2018 shows that the park is operating in a manner consistent with the 2013 approval, and the park boundary highlighted on the image reflects the actual park boundary approved in 2013 (Attachment "G").

2. After verification of the status of a nonconforming use pursuant to Subsection 14.32.060, the Planning Commission 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. In making this finding, the Planning Commission shall consider the factors listed below.

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

i. The applicant explains that the Surfside Mobile Village has been in existence since 1972. It is a 55 and older community where most all the residences are occupied on a full-time basis. The Planning Commission determination in File No. 2-NCU-13 confirmed that a valid nonconforming use had been established on the subject property. The applicant has provided photographs showing that the park has been maintained in good condition (Attachment "H").

The findings indicate that to the west of the park across Hurbert Street is a commercial office building, a vacant lot, a duplex, and a single-family residence. To the north, the terrain climbs steeply and then levels out adjacent to NW 5th Street. The applicants own the lots on the south side of NW 5th Street, which overlook the park, and those lots are not a part of this application. A portion of the property to the east of the park is city-owned open space. Areas to the south across NW 3rd Street are residential; however, the south side of 3rd Street is a large hill that slopes up, with residences that are set back a fair distance from NW 3rd Street. These homes are not readily visible from the park. Generally the area west of the property can be described as the Nye Beach Commercial area. The applicants own all the property within the boundary created by NW 3rd, NW Hurbert, NW 5th, and NW Lee Streets with the exception of four tax lots. The total area not owned by the applicants within those parameters is approximately 23,000 square feet, whereas the applicants own approximately 100,000 square feet. The property is about one and a half blocks west of Highway 101; and NW 3rd Street, which abuts the subject property to the south. To the east of the property is an apartment building, a commercial fueling station, and the former city sewer plant where the fire training tower is built.

ii. As noted in the application materials, the park is grade separated from adjoining residential areas. This includes the original park (Tax Lot 10500) and the expansion areas (Tax Lots 10501, 10600, 10700, and 10800). The tax lots orient to, and are accessible from roads internal to the park. Tax Lots 10501 and 10700 are accessed from NW 3rd Street, a collector roadway that serves the primary access to the Nye Beach Commercial area.

iii. Based on findings and testimony regarding the character and history of the use and of development in the surrounding area, the Planning Commission determines that the expansion of the use would not cause any greater adverse impact on the neighborhood.

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

- i. The applicant explains that the use of the property does not result in noise, vibration, dust, odor, fumes, glare, or smoke other than what would exist if the property were used as a residential use that is allowed outright in the zone. The roads in the park are paved so there is little if any noise from any vehicles moving in the park. The uses do not cause dust, odor, fumes, glare, or smoke.
- ii. The park model units planned for this property will be placed on foundations and permanently connected to utilities.
- iii. Based on findings and testimony regarding the comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

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

- i. The applicant states that all sewer and water services are in place at the park. The units on Tax Lot 10700 will be served by utilities already existing on the lot.
- ii. The applicants provided a detail drawing (Attachment "D"), which is helpful in establishing that suitable vehicle access can be provided to four park model recreational vehicle units on Tax Lot 10700.
- iii. NW 3rd Street provides access to the four units on Tax Lot 10700, the only area of the park impacted by adding one unit. This public street is improved with a paved surface and sidewalk.
- iv. As documented in File 2-NCU-13, manufactured dwellings and appurtenant structures within the park appear to extend over public sewer and storm drain lines and associated easements. This makes it difficult for the City to exercise its easement rights to access the utilities for maintenance purposes or to address failures. This has a direct bearing on the near and long term adequacy of these utilities to serve the subject development and surrounding areas. At that time, the applicant testified that a number of the units in the park were nearing the end of their useful life. The Commission elected to address the encroachments by requiring that, as units are replaced, they be situated in a manner that does not impair the City's ability to exercise its easement rights and access these utilities. A condition of approval was included in the 2013 approval addressing this issue, and it is appropriate that it be carried forward with this decision since circumstances on the ground have not changed.
- v. Based on findings and testimony regarding the adequacy of infrastructure, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

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

- i. The applicant notes that the addition of one space on what is now Tax Lot 10700 will add only a minor amount of traffic. Any additional traffic will be on NW 3rd Street, which has been recently improved and is already a primary access to the Nye Beach Commercial area.

Further, the trips to the site will be residential in nature. The placement of one additional park model on this tax lot will be still fewer units than could be allowed by an apartment building, which is an allowed use on the property.

ii. This park is a residential development, and the types and kind of trips associated with the park use are what would be expected in a residential area. Densities are slightly higher than what exists in nearby residential neighborhoods; however, this is offset somewhat by the fact that this is a park dedicated to senior living. Further, as previously noted, the park is isolated from adjoining residential neighborhoods by terrain, so none of the park elements will orient traffic onto local streets in these areas (i.e. all traffic flows to NW 3rd Street).

iii. Based on findings and testimony regarding the comparative numbers and kinds of vehicular trips to the site, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

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

i. Parking is provided on site. There is virtually no loading or unloading given the primary residential nature and use of the additional unit.

ii. Based on findings and testimony regarding the comparative amount and nature of outside storage, loading, and parking, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

f. The comparative visual appearance.

i. The applicant states that there will be little change in the visual appearance from what currently exists. There will be one park unit added on what is now Tax Lot 10700. It will be a unit for a full-time resident.

ii. Based on the photographs (Attachment "H"), findings, and testimony regarding the comparative visual appearance, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

g. The comparative hours of operation.

i. The applicant notes that the hours of operation will not change. The one additional unit is a residential unit.

ii. Based on findings and testimony regarding the comparative hours of operation, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

h. The comparative effect on solar access and privacy.

i. Given that the park sits lower than adjoining property, and the addition unit that is proposed is a single-story unit, solar access to adjoining property will not be affected. Similarly, since

the unit sits lower than the surrounding property, there will be no impact on privacy on adjoining property.

ii. Based on findings and testimony regarding the comparative effect on solar access and privacy, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

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

i. In their findings, the applicants list the following other factors to be considered:

- a. The new park model will be an enhancement to the property.
- b. The geographical features of the area tend to separate the property from other residential uses in the area.
- c. The approval of this proposal will assist in providing safe, clean, and affordable housing for those 55 and older.

ii. Based on findings and testimony regarding other factors that impact the character or needs of the neighborhood, the Planning Commission concludes that the expansion of the use would not cause any greater adverse impact on the neighborhood.

j. 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.

i. A condition of approval is attached requiring that a new unit placed within the park, including those that are to be constructed on Tax Lot 10700, adhere to the provisions of the Oregon Manufactured Dwelling and Park Specialty Code, as amended and that it satisfy fire and life safety standards of ORS 446.100. This ensures that the degree to which park units do not conform to these standards will lessen over time.

ii. Based on findings and testimony regarding the purpose of the current zoning provisions that cannot be satisfied, the Planning Commission determined that the expansion of the 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 nonconforming 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 or justified for the expansion of the park by one additional RV space.

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 the expansion of a nonconforming use found in Chapter 14.32 of the Newport Municipal Code (NMC); and, therefore, the requested alteration and expansion of a nonconforming use as described in the applicant's findings and supporting documents as submitted, is hereby approved with the following conditions:

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 applicants shall comply with all applicable building codes, fire codes, zoning ordinance requirements, 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 applicants are responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
3. As units are replaced within the park, the replacement units shall comply with the most current Oregon Manufactured Dwelling and Park Specialty Code, including the Fire and Life Safety Standards listed under ORS 446.100.
4. As units are replaced within the park, the new units shall be situated in such a manner that does not impair the City's ability to exercise its easement rights and access its utilities.

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE # 4-NCU-18, APPLICATION FOR ALTERATION)
AND EXPANSION OF A NONCONFORMING USE,) FINAL
AS SUBMITTED BY DOUGLAS & VERNA FITTS) ORDER
(SURFSIDE MOBILE VILLAGE) (DENNIS L. BARTOLDUS,)
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING a request per Chapter 14.32 (“Nonconforming Uses, Lots, and Structures”) of the Newport Municipal Code (NMC) for the alteration and expansion of a nonconforming use to include an additional Recreational Vehicle (RV) space at Surfside Mobile Village. This increases the allowed number of units to 24 permanent manufactured dwelling spaces and 8 RV spaces. The subject property is located at 392 NW 3rd Street (Lincoln County Assessor’s Tax Map 11-11-05-CD, Tax Lots 10500, 10501, 10600, 10700, and 10800). In sum, the properties total to approximately 2.22 acres in size.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission has duly held a public hearing on the request, with a public hearing a matter of record of the Planning Commission on November 26, 2018 and December 10, 2018; 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 nonconforming use permit.

BASED UPON THE ABOVE, the Planning Commission determines that the request to alter and expand a nonconforming use is in conformance with the provisions of the Comprehensive Plan and the Municipal Code of the City of Newport; and the request is, therefore, granted subject to the following conditions:

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 applicants shall comply with all applicable building codes, fire codes, zoning ordinance requirements, 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 applicants are responsible for obtaining the necessary approvals and permits pertaining to the proposed use.
3. As units are replaced within the park, the replacement units shall comply with the most current Oregon Manufactured Dwelling and Park Specialty Code, including the Fire and Life Safety Standards listed under ORS 446.100.
4. As units are replaced within the park, the new units shall be situated in such a manner that does not impair the City's ability to exercise its easement rights and access its utilities.

Accepted and approved this 10th day of December, 2018.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

PLANNING STAFF REPORT

Case File No. 4-CUP-18

A. **APPLICANT:** Justin Luckini, Luckini Construction (Sally Ford, Mateam Partnership, owner).

B. **REQUEST:** Approval of a Conditional Use Permit, per Chapter 14.23 of the Newport Municipal Code relating to historic buildings and sites. The project includes cedar shingle siding repair of a 2-ft x 30-ft section on the southeast side of the patio walkway entrance; 20-ft belly band replacement on the NE corner of the building at ground level; 10-ft x 6-ft roof replacement on the north side of the lower level kitchen entrance; and 2-ft x 3-ft sheetrock ceiling removal in the Jules Verne room to inspect plumbing leak and repair as needed.

Additionally, contractor will remove and replace eight (8) dining room windows keeping with the historical design of the hotel; replace the 36-in exterior kitchen man door; replace rotten and water damaged shingles and rim joists on dining room walls up to 60-ft in length.

C. **LOCATION:** 267 NW Cliff Street.

D. **LEGAL DESCRIPTION:** Tax Lot 12200 of Lincoln County Assessor's Map 11-11-08-BB (portion of Lot 3, Block 5, Nye and Thompson Addition to Newport).

E. **LOT SIZE:** 0.13 acres.

F. **STAFF REPORT**

1. **REPORT OF FACT**

a. **Plan Designation:** Commercial.

b. **Zone Designation:** C-2/"Tourist-Commercial"

c. **Surrounding Land Uses:** The Newport Visual Arts Center and Nye Beach Turnaround are to the north, tourist commercial businesses are to the east, and a mix of tourist commercial businesses and residential is to the south.

d. **Topography and Vegetation:** The hotel is constructed on a bluff overlooking the Pacific Ocean. The ground slopes moderately to the west. Vegetation is sparse, namely grasses.

e. **Existing Structures:** Sylvia Beach Hotel, previously known as the New Cliff House, constructed in 1913.

- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** None known.
- h. **Past Land Use Actions:** File No. 1-CUP-17. Authorized removal and replacement of four (4) west facing windows, one (1) north facing window and the north and west facing decks. The decision was later amended to allow replacement of seven (7) additional windows and four (4) man doors.
- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on November 7, 2018; and the notice of public hearing was published in the Newport News-Times on November 30, 2018.
- j. **Attachments:**
 - Attachment "A" – Application form
 - Attachment "A-1" – Applicant's narrative
 - Attachment "A-2" – Photographs of existing hotel
 - Attachment "A-3" – Architectural rendering of the hotel (version 1)
 - Attachment "A-4" – Architectural rendering of the hotel (version 2)
 - Attachment "B" – Zoning Map of the Area
 - Attachment "C" – History Element of the Comprehensive Plan
 - Attachment "D" – Notice of Public Hearing

2. **Explanation of the Request:** Newport Municipal Code (NMC) Chapter 14.23 sets out measures to protect historically significant buildings and structures within the City of Newport. Buildings and structures deemed to be historically significant resources are those inventoried in the History Element of the Newport Comprehensive Plan. The Sylvia Beach Hotel is such a resource. The applicant is planning to replace cedar shingle siding on the southeast side of the patio walkway entrance; the belly band on the NE corner of the building at ground level; the roof on the north side of the lower level kitchen entrance; the exterior kitchen man door; damaged shingles and rim joists; and eight (8) dining room windows. Repairs will also occur to the interior of the building.

The applicant prepared architectural renderings of the north and west elevations of the hotel with renovation work they performed in 2017 and 2018 (File #1-CUP-17). They have asked that the same renderings be included with this application to illustrate the effort they are making to ensure that new exterior materials will align as close as possible with the historic architectural elements (Attachment "A-3" and "A-4"). Photographs of all four sides of the hotel show what the building looks like in its current state (Attachments "A-2"). Section 14.23.030 notes that a public hearing before the Planning Commission is required before a structural change is made to the exterior of a historically significant building or structure. Changes to windows, doors, siding or roofing are specifically called out as structural in nature. The Planning Commission is charged with confirming that the proposed changes will not detract from or destroy historic buildings or the architectural features of a building determined to be of substantial and significant architectural importance (NMC 14.23.040). Policy 4 of the History Element of the Comprehensive Plan

further notes that the Commission must (a) determine whether or not the proposed use or alteration is compatible with the historic nature of the structure and (b) whether or not the proposed alteration to the exterior of the structure will maintain its historic value.

3. **Evaluation of the Request:**

a. **Comments:** All surrounding property owners and affected city departments and public utilities were notified on November 7, 2018. The notice was published in the Newport News-Times on November 30, 2018. No comments were received as a result of the notice.

b. **Hearing Required (Section 14.23.030):**

(1) Any exterior alteration involving structural changes, or changes which would detract or destroy historic architectural features (such as changes in windows, doors, siding, or roofing) shall require a public hearing. Such hearing shall only be required for buildings or structures listed in the Comprehensive Plan as being significant historical resources which should be preserved. Painting of a structure or repair using materials which restore the building to its original character shall not require a public hearing. Interior alterations shall not require a public hearing unless such changes would be evident on the exterior of the structure.

(2) Where such changes would have a negative effect on a significant historical resource, a delay of up to 60 days may be required by the Planning Commission so that alternative solutions may be examined.

c. **Alterations Prohibited (Section 14.23.040):** No changes shall be made if the Planning Commission determines that such changes would detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance. (See Chapter 2, Physical and Historical Characteristics, of the Comprehensive Plan.)

d. **Policy 4, Chapter 2, Physical and Historical Characteristics, of the Comprehensive Plan (History Element)**

(1) The City of Newport shall encourage property owners making alterations to identified historic structures to maintain their historic value. The Planning Commission shall review all proposals for modification or alteration to structures designated in the inventory as having historical significance. In determining whether or not the proposal complies with this policy, the following shall be considered by the Planning Commission in their review:

- Whether or not the proposed use or alteration is compatible with the historic nature of the structure.

- Whether or not the proposed alteration to the exterior of the structure will maintain its historic value.

e. **Staff Analysis:**

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

- (1) *Is the building or structure in question listed in the Comprehensive Plan as being an historically significant resource which should be preserved and, if so, is the work proposed by the applicant an exterior alteration that is structural in nature thus necessitating a public hearing (NMC 14.23.030).*

The structure is identified in the Comprehensive Plan as being historically significant. It is referenced as the New Cliff House (Site #13). The inventory notes that the hotel was constructed in 1913, is the last of the turn-of-the-century oceanfront resort hotels in Newport still standing, and has been completely restored as the current Sylvia Beach Hotel. The hotel is also featured on the cover of the design guidelines for the Historic Nye Beach Design Review District.

This project includes replacement of windows, siding, roofing, and a door. These are the types of exterior alterations that could impact the architectural character of the building and are specifically called out as being structural in nature.

Considering the above, there is ample evidence for the Planning Commission to conclude that the Sylvia Beach Hotel is included on the City's inventory of historically significant resources, and that the planned exterior repairs necessitate a hearing before the Planning Commission to ensure that the improvements do not compromise the historic character of the building.

- (2) *Will the changes proposed by the applicant detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance? In making this determination, the Commission must establish that:*

(a) *The proposed use or alteration is compatible with the historic nature of the structure, and*

(b) *The proposed alteration to the exterior of the structure will maintain its historic value (NMC 14.23.040 and Policy 4, Chapter 2, Physical and Historical Characteristics, of the Comprehensive Plan.)*

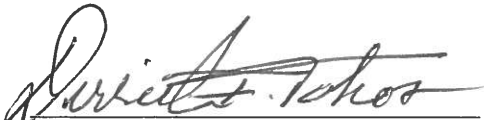
Photographs of the existing hotel, and architectural renderings of the renovated structure (Attachments "A-2" to "A-4") provide the Commission with a clear picture of the work that is to be performed. The style of replacement windows will be as previously approved (File #1-CUP-17), and will have a similar look (at least as close as possible given available products on the market). All exterior work is intended to be in kind replacement. Applicant had previously noted that repaired areas will be painted to match. Planned interior repairs are necessary so that the existing hotel use can continue and, as such, do not constitute an alteration that is incompatible with the historic nature of the structure .

Given the above, it is reasonable for the Planning Commission to find that the planned exterior repairs are compatible with the historic nature of the structure and will not detract from its historic value to the community.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Newport Municipal Code and Comprehensive Plan then it should approve the request. The Commission can attach reasonable conditions that are necessary to ensure that the historic character of the building and site are preserved. 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 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 applicant/property owner to comply with these documents and the limitations of approval described herein.



Derrick I. Tokos AICP
Community Development Director
City of Newport

December 5, 2018



City of Newport Land Use Application

Applicant Name(s): Luckini Construction Property Owner Name(s): Sally Ford

Applicant Mailing Address: P.O. Box 2313 Property Owner Mailing Address: 267 NW Cliff
Newport, OR. 97365 Newport, OR.

Applicant Phone No. 541-272-7667 Property Owner Phone No. 503-781-4266

Applicant Email LuckiniConstruction@gmail.com Property Owner Email SallyMFord@yahoo.com

Authorized Representative(s):
 Authorized Representative Mailing Address:
 Authorized Representative Telephone No.
 Authorized Representative Email:

Project Information

Property Location 267 NW Cliff St
Newport, OR 97365

Tax Assessor's Map No.: 11511W0813B Tax Lot(s): 11-11-08-BB 12200-00

Zone Designation: Legal Description:

Comp. Plan Designation:

Brief description of Land Use Request(s):
 1. Replacing windows, man doors, minor siding, possible rim board
 2. Front, 1st second

Existing Structures: if any yes

Topography and Vegetation:

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 checked="" 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 type="checkbox"/> Other |

FOR OFFICE USE ONLY

File No. Assigned: 4-CUP-18

Date Received: 11/5/18 Fee Amount: 1802- Date Accepted as Complete:

Received By: SM Receipt No. 2706 Accepted By:

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


625-18-000100-PLNG



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.

	11-5-18
Applicant Signature(s)	Date
Property Owner Signature(s) (if other than applicant)	Date
Authorized representative Signature(s) (if other than applicant)	Date
<p style="text-align: center;">Please note application will not be accepted without all applicable signatures.</p> <p>Please ask staff for a list of application submittal requirements for your specific type of request.</p>	

LUCKINI CONSTRUCTION INC.

PO Box 2313
Newport, OR 97365
541-272-1027 Office
541-272-7667 Cell
CCB # 200815

City of Newport
Planning Department
169 SW Coast Hwy
Newport, OR 97365

November 1, 2018

Attention: Planning Commission

RE: Sylvia Beach Hotel
267 NW Cliff Street
Newport, OR 97365
Conditional use permit check list

Commission Members/Planning Department:

- Item 1 - On file at City Planning Department
- Item 2 - On file at City Planning Department
- Item 3 - Not applicable
- Item 4 - Attached
- Item 5 - Attached
- Item 6 - Cedar shingle siding repair 2' x 30' section on the SE side of the patio walkway entrance
20' belly band replacement on NE corner of building at ground level
10' x 6' roof removal and replace on N side of lower level kitchen entrance
2' x 3' sheetrock ceiling removal in Jules Verne room to inspect plumbing leak, repair as needed
- Future upcoming repairs to include:
 - 8 dining room windows-remove and replace keeping with the historical design of Sylvia Beach Hotel
 - Remove and replace 36" exterior kitchen man door
 - Remove and replace rotten and water damaged shingles and possibly rim joists on dining room walls up to 60' in length
- Item 7 - A. Not applicable
B. Complies with zoning
C. No impact
D. All work is cosmetic remodel
- Item 8 - The nature of this request is to update and improve the building.
- Item 9 - Enclosed

Thank you,

Justin Luckini
Luckini Construction Inc.
Enclosures

(SylviaBehplanning11.1.18)

Attachment "A-2"

File #4-CUP-18

Hotel Photos



East Elevation



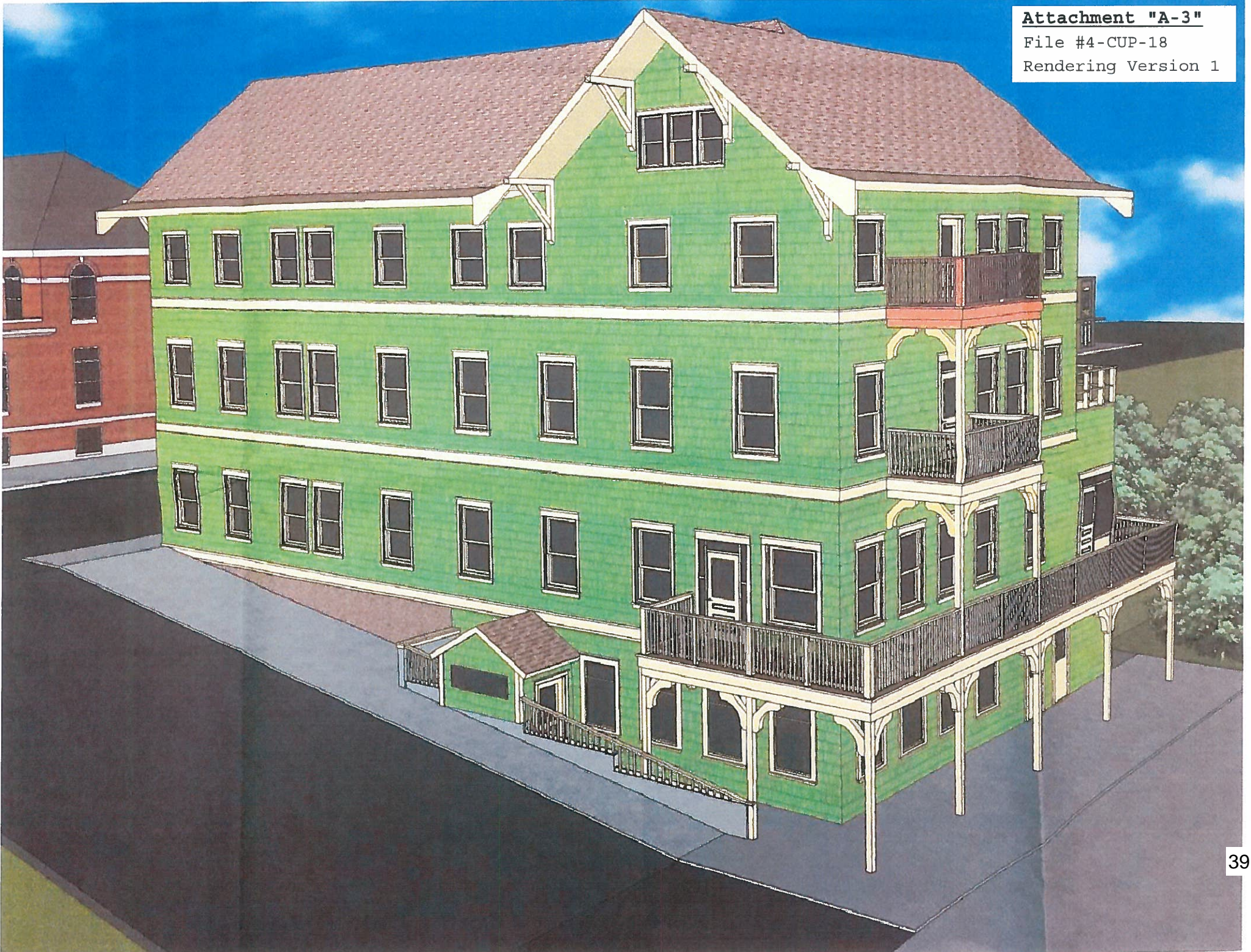
West Elevation



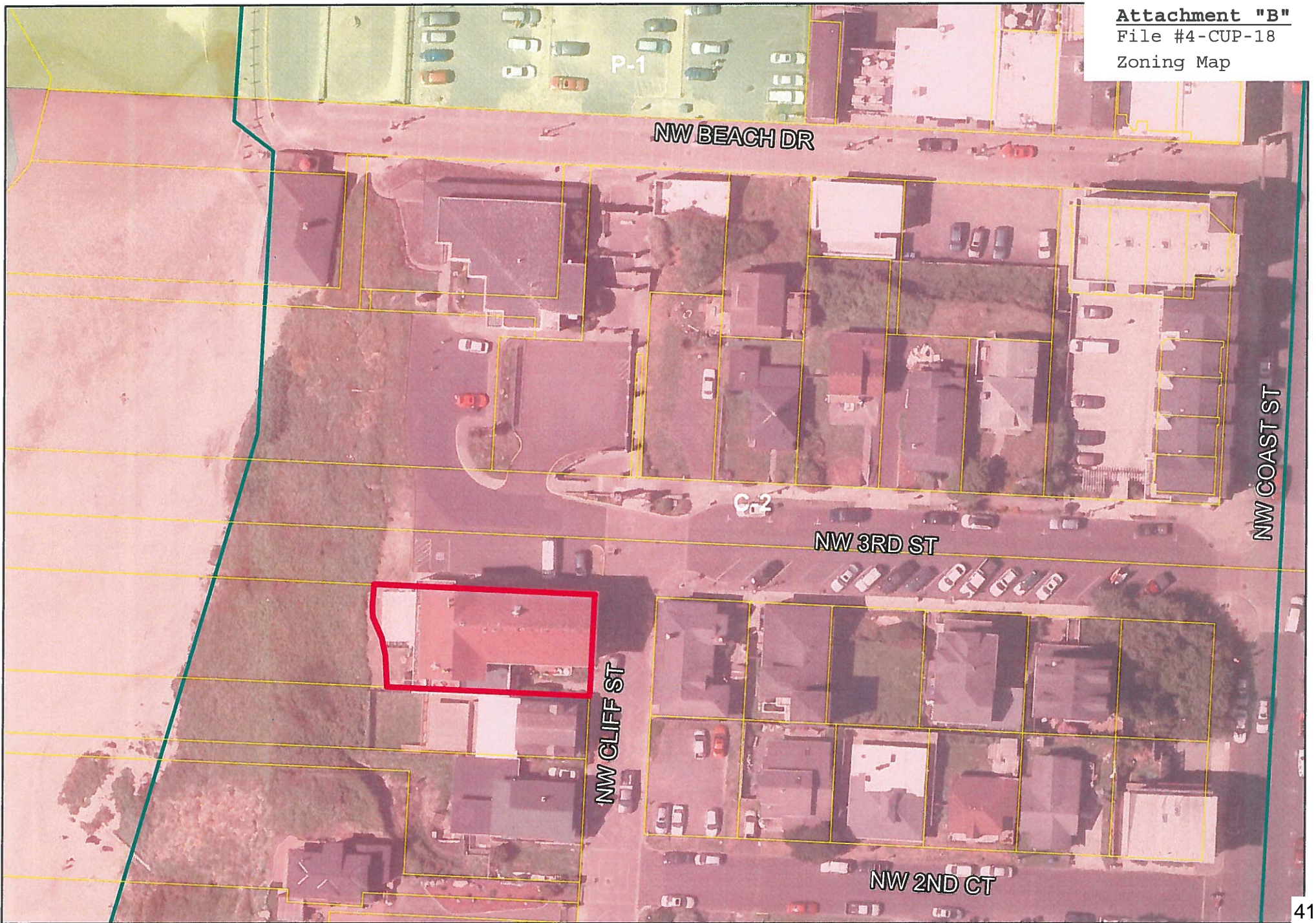
North Elevation



South Elevation







HISTORY

Early History:

"Local Indian tribes were the first known residents of the Oregon Coast. Although they had many similarities, individual tribes occupied separate and sometimes separated areas. Thus, by the time the first explorers landed, the Indians had developed differing customs and varying levels of attainment in use of available natural resources, including well-developed religious and political systems. This was particularly true along the Oregon coast, where a temperate climate and plentiful food supplies, particularly anadromous fish, supported large groups living in relatively close proximity to each other.

"Juan Cabrillo, a Spanish explorer, is believed to have reached the southern Oregon Coast in 1542. By 1594, Spain was systematically exploring the northwest coast. In the late 1700's, Spain made thorough, systematic, and accurate surveys of the area, and claimed sovereignty over portions of the coast. Heceta Head, in the mid-Coast subarea, is named for one of the Spanish explorers.

"In March of 1778, Captain James Cook, in a search for the supposed Northwest Passage, made the first landfall of his voyage near Yaquina Bay, also in the Mid Coast subarea; and in 1787, Captain Meares identified points along the Oregon coast. Also about that time, an American, Captain Robert Gray, entered [the] Columbia River and explored its lower reaches, but made no claims of possession for the United States.

"In 1805, Captains Meriwether Lewis and William Clark, after leaving St. Louis, Missouri, in 1804, reached the Pacific Coast and wintered near the Columbia River. Following Lewis and Clark came increasing numbers of trappers, traders, and settlers, both Canadian and American. Fort Astor was established on the Columbia River by John Jacob Astor, an American; in 1821 it was acquired by Hudson's Bay Company and moved inland to a site in what is now the State of Washington. In 1825, the fort was renamed Fort Vancouver.

"By the middle 1830's, exploration was largely completed, Indian tribes and their complex social systems were experiencing severe adjustments to accommodate the increasing number of settlers, and disease was sharply reducing their numbers." ¹

¹ Pacific Northwest River Basins Commission, The Oregon Coast Level B Study of the Water and Related Land Resources (Oregon State Study Team, 1976), p. 15.

The Pacific Northwest would never be the same.

Recent History:

"The Yaquina Bay area was originally settled in the 1850's. Newport was named in 1866 and subsequently incorporated in 1882. Lack of access generally stifled any significant growth until the 1880's when construction on the railway was begun. The first train made the trip from Corvallis to Yaquina in 1885. The construction of the railway first to Elk City and then to Toledo significantly improved access and stimulated growth in the Newport area. Newport began to develop as a tourist community. Yaquina Bay was the only bay on the Oregon Coast connected to the Willamette Valley by railway. People coming to Newport would take the train from Albany and Corvallis to Elk City and down the Yaquina River on a ferry to Newport, docking on what is now Bay Boulevard.

"In the 1890's, Newport had a permanent population of approximately 120 people. In a brochure advertising the recreational attraction of the Newport area, promoters claimed to have had hotel and boarding house accommodations for 400 to 500 people plus unlimited camping space available.

"While Newport experienced relatively slow growth, the cities up the river involved in lumbering and other industries thrived. Steam boats and schooners often came in and out of the bay to pick up a load of lumber or Yaquina oysters, and deliver supplies to the settlers. Before it burned, Yaquina City had a population of over 2,000.

"Commercial fishing was also an important industry and provided settlers with food as well as a source of income.

"During World War I, the United States Government established the largest spruce mill in the world at Toledo, to provide wood for the construction of airplanes. This also served to stimulate growth in the Newport area.

"Newport continued to be the primary coastal tourist center for the Willamette Valley until the late 1920's when construction began on the Coast Highway and other areas of the coast were opened up to motorists.

"In 1936 the Yaquina Bay Bridge was built. With the building of other bridges and completion of the coast highway, the full length of the Oregon Coast was opened to travelers. While tourists no longer came exclusively to Newport, the construction of the coast highway and bridges allowed many more people to vacation on the coast and Newport continued to grow.

"With the growth of tourism, fishing, and lumbering and continued improved access after 1936, Newport began to grow fairly rapidly until the late 1950's and early 1960's. Then many of the mills in the area closed down, resulting in many families leaving the area. More recently with increasing numbers of people traveling the Coast Highway, Newport is again growing." ²

During the 1970's and 1980's, Newport experienced sharp swings in the local economy. Still dependent on the tourism, lumber, and fishing industries, the drastic fluctuations in energy costs, interest rates, and commodity prices severely affected the amount and type of growth.

Historical and Archaeological Resources:

The historical and archaeological heritage of the Oregon coast is irreplaceable both to the people of the coast and the entire State of Oregon. It offers present and future generations educational and scientific opportunities to better understand the ways, values, and traditions of the past coastal peoples. These historical and archaeological resources also have value to the coastal economy for their attraction to tourists and potential residents. Thus, it is important to inventory and protect those resources that have been identified as having historic or archaeological significance.

As the competition for land has grown, some of these sites have become desirable for other uses; they will convert to those uses unless they're protected by some method. The job of concerned citizens through their public officials is to determine which of these resources are too valuable to be lost and then to implement methods for their protection.

In determining historical or archaeological significance of districts, sites, buildings, structures, and objects, the following characteristics can serve as a guide:

Historic Sites:

- (a) Have character, interest, or value as part of the development heritage or cultural characteristics of the city, state or nation;
- (b) Are the site of an historic event with an effect upon society;

² City of Newport, Oregon, 1980-2000 Newport Comprehensive Plan, 1982.

- c) Are identified with a person or group of persons who had some influence on society; or
- d) Exemplify the cultural, political, economic, social, or historical heritage of the community.

Archaeological Sites:

- (a) Have material evidence of human life and culture of the prehistoric past that may be recovered and studied; or
- (b) Are identified as potential archaeological sites by a recognized archaeological organization.

Considering the above criteria, and in view of the historical significance of Newport as one of the first coastal recreation communities, the Lincoln County Historical Society has identified the following sites within the Newport urban growth boundary as being of historical significance:

1.) Cape Foulweather Lighthouse/Yaquina Head Lighthouse:

Constructed by the U.S. Lighthouse service in 1862, this is the second oldest lighthouse on the Oregon Coast³ and was built to replace the light at the entrance to Yaquina Bay. Apparently, the lighthouse was originally to have been erected on Cape Foulweather, but the supplies were mistakenly landed at Yaquina Head, so it was built there. The Oregon Coastal Zone Management Association (OCZMA) has classified the site as being of natural historic significance, and it is marked with a Lincoln County Historical Society marker, as well as being listed on their map. The National Register of Historic Places also lists the site.

Owner: U.S. Bureau of Land Management.

Current Use: Automated lighthouse, wildlife refuge, and a scenic and natural area.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes (lighthouse only).

Conclusion: The site and lighthouse should be preserved. Other out buildings are not significant and are not worth

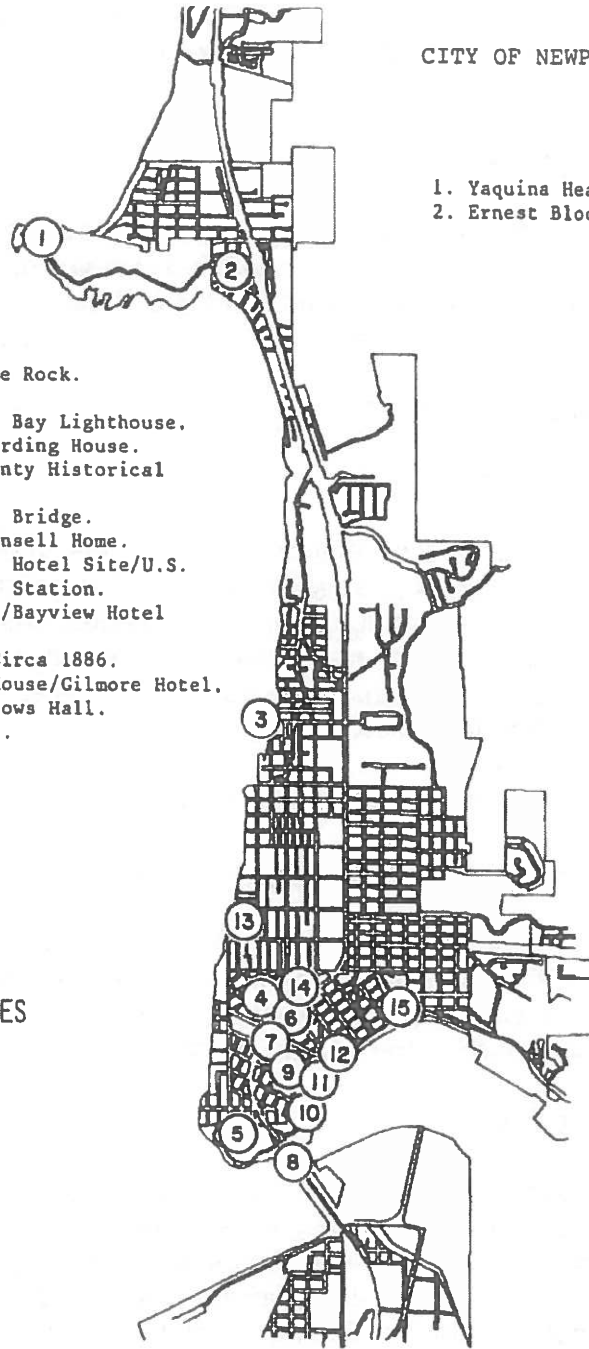
³ The first is the old Yaquina Bay Lighthouse (number 5 on this list).

CITY OF NEWPORT

- 1. Yaquina Head Lighthouse.
- 2. Ernest Bloch Home.

- 3. Jump-Off Joe Rock.
- 4. The Castle.
- 5. Old Yaquina Bay Lighthouse.
- 6. Burrows Boarding House.
- 7. Lincoln County Historical Museum.
- 8. Yaquina Bay Bridge.
- 9. Royal A. Bensell Home.
- 10. Ocean House Hotel Site/U.S. Coast Guard Station.
- 11. Abbey Hotel/Bayview Hotel Site.
- 12. The Grand/Circa 1886.
- 13. New Cliff House/Gilmore Hotel.
- 14. Old Oddfellows Hall.
- 15. Scott House.

HISTORIC AND CULTURAL RESOURCE SITES



Page 15. CITY OF NEWPORT COMPREHENSIVE PLAN: History.

the preservation effort. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the City of Newport Zoning Ordinance.

2.) Ernest Bloch Home:

Ernest Bloch, a well-known composer and orchestra conductor, occupied this house from 1941 until 1959. It has been classified as being of historical importance to the nation by the OCZMA, and a bronze plaque mounted on a boulder located at the junction of Yaquina Head Lighthouse and Highway 101 marks the site.

Owner: First Baptist Church of Salem.

Current Use: None.

Conflicting Use: Zoned for retail commercial uses, there could be negative results for the site if development pressures become too great. If retail commercial uses are not allowed, unfavorable economic consequences could occur. If conflicting uses develop on or near this site, the loss of a cultural resource could be socially detrimental. No energy consequences will occur as a result of either allowing or not allowing the conflicting uses.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: Both the site and the Bloch Home have significance such that the Planning Commission shall review any proposal for modification or alteration to the structure to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

3.) Jump-Off Joe Rock:

Located north of Nye Creek off Coast Street, this large Nye Sandstone formation has eroded over the years to a small sea stack. Legend attributes the name to an Indian named Joseph who was chased to the site by men and was advised by a Siletz woman to "Jump off, Joe", which he did. OCZMA classifies the site as being of importance to Lincoln County, and the Lincoln County Historical Society distinguishes the site with both a marker and being shown on their map.

The Jump-Off Joe landslide area is an example of a detached mass sliding on a seaward-dipping bedding plane. Both north and south of Jump-Off Joe the heads of slides have moved

land forward several hundred feet and have cut off roads, damaged or destroyed houses, and disrupted the ground surface. More than 16 acres of land have been involved in the Jump-Off Joe landslide area. While this is a dramatic example of a catastrophic slide potential, because so much of Lincoln County's development is along the margin of the marine terrace where soft soil and weathered rock is being undermined by erosion at a rapid rate, catastrophic landslides are a potential hazard in many areas.⁴ Thus, the city has concluded that while this particular slide area must be mentioned as a geologic hazard, it has not been found to be scientifically significant.

Owner: State of Oregon.

Current Use: Natural area.

Conflicting Use: None (site is in the ocean).

Site of Special Historic Significance: Yes.

Conclusion: State ownership protects the site. The inshore area is City of Newport park land, which contributes to site protection.

4,) The Castle:

Located on S.W. Alder Street just west of U.S. Highway 101, and now divided into three apartments, this house was built by Charles A. and Teresa Roper in 1912.⁵ The site is listed on the National Register of Historic Places.

Owner: Jeff Ouderkirk.

Current Use: Residential (apartments).

Conflicting Use: None (zoned for residential use).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building is worth preserving. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure that its

⁴ State of Oregon Department of Geology and Mineral Industries, Bulletin 81: Environmental Geology of Lincoln County, Oregon, 1973.

⁵ Charles Roper was the mayor of Newport from 1921-23.

historic value is maintained consistent with the provisions contained in the Zoning Ordinance.

5.) Old Yaquina Bay Lighthouse:

Built in 1871, this was the first lighthouse on the Oregon Coast. It is classified as being of historical importance to the nation by the OCZMA, and the Lincoln County Historical Society distinguishes the site on their map and with a marker. The National Register of Historic Places also lists the site. The lighthouse is on property owned by the Oregon State Parks Department, which maintains it as a museum. It is open to the public during the summer months.

Owner: Oregon State Parks Department.

Current Use: Museum.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by the Oregon State Parks Department. Any modification or alteration to the lighthouse or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

6.) Burrows Boarding House:

This building was originally located west of Highway 101 at the site of the Bank of Newport. Originally used as a boarding house and then as the Bateman Funeral Home, the Lincoln County Historical Society moved it in 1976 to S.W. 9th Street next to their museum to serve as a museum annex. Photographs in 1889 show the Queen Anne style building as a boarding house. OCZMA has rated the house as being of historical significance to the City of Newport.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport).

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: Yes.

Conclusion: The building and site are worth preserving, and they are adequately protected by both the Lincoln County Historical Society and the City of Newport. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

7.) Lincoln County Historical Museum:

A log building on S.W. 9th Street, the museum has one of the finest Indian interpretive exhibits on the Coast.

Owner: Lincoln County Historical Society (the land is owned by the City of Newport).

Current Use: Museum.

Conflicting Use: None (zoned for public buildings).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building is a replica of a early log cabin and contains important historic exhibits and artifacts. Change, expansion, removal, or replacement of the building by the Historical Society, as needed, shall be allowed.

8.) Yaquina Bay Bridge:

Completed in 1936 after two years of construction, the bridge replaced the Yaquina Bay Ferry and was a key portion of the coast highway system. The bridge led to development of the business district along Highway 101 in Newport, dramatically increasing tourism on the Oregon Coast. OCZMA has categorized the bridge as having importance to the state.

Owner: State of Oregon.

Current Use: Bridge.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Structure of Special Historic Significance: Yes.

Conclusion: If necessary to expand the bridge, it should be in the same corridor. Any expansion shall preserve the bridge silhouette by locating on the west side. Any modification or alteration to the bridge or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

9.) Royal A. Bensell Home:

Located at 757 S.W. 13th Street, this home was built in 1885 by Royal A. Bensell, an infantryman to the Grande Ronde Reservation in the Civil War. He was a co-owner of a steam sawmill at Depot Slough and was involved in direct lumber shipments to San Francisco. Bensell served as a representative to the State Legislature from Western Benton County from 1868-1882, and was justice of the peace and collector of customs for the Yaquina District in the 1880's. Mr. Bensell also served as mayor of Newport from 1908-10, 1915-17, and part of 1921. The OCZMA notes this home as being of historical importance to the county.

Owner: Dr. Russell Guiss.

Current Use: Residence.

Conflicting Use: Yes.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: The structure has undergone wholesale structural and aesthetic changes during the last 25 years through the efforts of the current owners, Dr. and Mrs. Russell Guiss. These alterations have irrevocably altered the original appearance and character of the house by commingling contemporary building materials and designs with the original.

10.) Ocean House Hotel Site and U.S. Coast Guard Station:

The Ocean House Hotel was built in 1866-67 by James R. Bayley⁶ and Samuel Case. Case, the proprietor, came to the area as an infantryman to serve at the Siletz Reservation. The present U.S. Coast Guard Station is located on the Ocean House Hotel Site and was built in about 1935. The OCZMA has listed the site as having historical importance to the

⁶ Mayor of Newport from 1884-85, 1892-93, and 1897-99.

county. A Lincoln County Historical society marker identifies the Ocean House site, and it is shown on their map.

Owner: U.S. Coast Guard.

Current Use: Coast Guard Station.

Conflicting Use: None.

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The historic marker for the site should be maintained, as should the typical 1930's Coast Guard style. This is a significant anchor to the original town site. Any modification or alteration to the building or the site shall be reviewed by the Planning Commission to assure the maintenance of its historic value consistent with the provisions contained in the Zoning Ordinance.

11.) Abbey Hotel/Bayview Hotel Site:

Peter Morton Abbey was one of Newport's pioneer settlers in 1867. He built the Bayview Hotel in 1871 on the waterfront and moved it back against the hill in 1911. The hotel was torn down in 1935. The Abbey Hotel, built in 1911 at 704 S.W. Bay Boulevard, operated until it burned in 1964. It was a three-story wooden building with 45 rooms. George Bahr, the owner in 1964, replaced the hotel with a restaurant-bar called "The Abbey," which was subsequently torn down for a parking lot in 1986. The OCZMA has recognized the site as having historic importance.

Owner: City of Newport.

Current Use: Public parking lot and rest rooms.

Conflicting Use: Yes (zoned for water-related uses).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No.

Conclusion: Preservation of neither site is required. A sidewalk marker may be appropriate.

12.) The Grand:

This two and one-half story wooden structure at 618 S.W. Bay Boulevard is one of the oldest structures, if not the oldest, on the Newport waterfront. It was built in 1886 as an

Oddfellows or Masonic Lodge in Olsonville (about a half a mile up the bay from its present location) and was established as a boarding house. It is now known as "Circa 1886," a gift shop. The building has historic significance to the county according to the OCZMA.

Owners: Richard C. Wilton.

Current Use: Gift shop.

Conflicting Use: While the building's location provides much of its historical significance, the designation of the area for water-related uses could pose a conflict. Because the building is one of the city's few historic buildings, its loss would have adverse social consequences. Its preservation would not have an adverse economic impact, as long as the character of the bayfront remains a mix of tourist and water-related uses. No significant energy consequences are likely to occur as a result of the preservation of this building or the identified conflicting uses.

Site of Special Significance: No.

Building of Special Significance: Yes.

Conclusions: The Planning Commission review of alterations or modification of this building will assure maintenance of historic value of the structure. The provisions contained in the Zoning Ordinance shall govern any review.

13.) New Cliff House/Gilmore Hotel:

Located on the ocean at the end of N.W. 3rd Street, this hotel was completed in 1913 by W.D. Wheeler. He and Peter Gilmore traded businesses in 1921, Gilmore taking over the hotel and Wheeler taking on Gilmore's chicken ranch outside of town. The Gilmore is the last of the turn-of-the-century oceanfront resort hotels in Newport still standing. Completely restored, it is currently operating as the Sylvia Beach Hotel.

Owner: Sylvia Beach Hotel, Inc.

Current Use: Hotel.

Conflicting Use: No (zoned for tourist commercial).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: Yes.

Conclusion: The structure is restored. The Planning Commission shall review any future alterations to assure the maintenance of the historic value. Such review shall be consistent with provisions contained in the Zoning Ordinance.

14.) Old Oddfellows Hall:

Located on the southwest corner of S.W. Hurbert Street and U.S. Highway 101, this large wooden frame structure was completed in 1912. Besides the Oddfellows, it has also housed Newport's U.S. Post Office and various retail businesses. A restaurant is currently in operation there.

Owner: Charles Thompson.

Current Use: Restaurant and other retail businesses.

Conflicting Use: Yes. The building has been substantially altered. The area is zoned for retail commercial uses but has a parking problem.

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: Neither the site nor the building should be preserved.

15.) Scott House:

Located on S.E. Bay Boulevard across from Port Dock 5, this house was built in 1928 by General Ulysses S. Grant McAlexander, a World War I veteran known as the "Rock of Marne." The house was built on the foundation of Dr. James R. Bayley's mansion and has been partially rehabilitated. Since this house is not the original structure and has been altered, it has no special historic significance. The site itself has been significantly altered in anticipation of commercial development.

Owner: Magna Corporation.

Current Use: Restaurant and lounge (Gracie's at Smuggler's Cove).

Conflicting Use: Yes (zoned for high density residential).

Site of Special Historic Significance: No.

Building of Special Historic Significance: No.

Conclusion: The building and the site are not significant and not worth any preservation effort.

16.) Oar House Bed and Breakfast:

The Oar House Bed and Breakfast is located at 520 S.W. 2nd Street. Built in approximately 1900 for Mrs. C.H. Bradshaw as "The Bradshaw," a rooming house, it has functioned in that capacity for 75 of its 88 years. On the corner of S.W. 2nd and S.W. Brook Streets, it is an L-shaped cross-gabled Craftsman style building. Although altered by the addition of some auxiliary structures, wall openings, and room partitions, the building retains most of its original fabric and function. Photographs dated 1907 and 1910 indicate little change to the main structure configuration except for the addition of the cupola in 1981.

Owners: Jan G. LeBrun.

Current Use: Bed and breakfast and residence.

Conflicting Use: No (zoned for high density residential and is developed residentially).

Site of Special Historic Significance: Yes.

Building of Special Historic Significance: No (building has been substantially altered).

Conclusion: The building and site do have the potential to be of special historic significance, but alterations to the building have compromised the historic quality. This site will need to be looked at closer to make a final determination of its significance.

Besides the above sites and structures, the bayfront and the Nye Beach areas are two potential historic districts. No specific study and determination has been made, but the importance of those two areas for their historic significance suggests that the city should explore the possibility of designating them as historic districts.

As for archaeological sites, all of the Newport Planning area falls within the "high density" archaeological site density classification shown in the 1976 Lincoln County Statewide Inventory of Historic Sites and Buildings⁷. In addition, the state archaeologist has said that areas as far as five miles upstream

⁷ State of Oregon Department of Transportation (Parks and Recreation Division), State of Oregon Inventory of Historic Sites and Buildings, 1974

on all streams and rivers emptying into the ocean are archaeological sensitive areas.

Conclusions:

- 1.) The Newport planning area contains several historic sites and buildings and two potential historic districts.
- 2.) Many of the sites and buildings are worth preserving, whereas some alterations and remodels have destroyed the historic qualities.
- 3.) While there are no conflicting uses among the sites currently listed, the inventory of historical-cultural sites developed thus far does contain several structures that are in precarious physical condition. Those sites may also be subject to a use change that could diminish their historic value.
- 4.) All of the Newport planning area is archaeologically sensitive.

GOALS/POLICIES
HISTORY

Goals: To maintain and preserve identified historic and cultural resources, to encourage private and public efforts aimed at preservation, to provide public information concerning the city's historic resources, and to provide public access to important historic-cultural sites where appropriate and possible.

Policy 1: The City of Newport shall work with the Lincoln County Historical Society and the State Advisory Committee on historic preservation, as well as with local residents to maintain and update the inventory of historically and culturally significant resources.

Policy 2: The City of Newport shall cooperate with the Lincoln County Historical Society and the Chamber of Commerce in the establishment of historical markers and information to increase awareness of Newport's historic background.

Policy 3: The City of Newport may consider the creation of historic districts, property acquisition, ordinance provisions, tax benefits, and other incentives to facilitate the preservation of an historic area.

Policy 4: The City of Newport shall encourage property owners making alterations to identified historic structures to maintain their historic value. The Planning Commission shall review all proposals for modification or alteration to structures designated in the inventory as having historical significance. In determining whether or not the proposal complies with this policy, the following shall be considered by the Planning Commission in their review:

- (a) Whether or not the proposed use or alteration is compatible with the historic nature of the structure.
- (b) Whether or not the proposed alteration to the exterior of the structure will maintain its historic value.

Policy 5: The bayfront and the Nye Beach areas will be considered for historic district status. The Goal 5 analysis and possible ordinance development will be completed by the next regularly scheduled periodic review.

Policy 6: The City of Newport shall protect Mike Miller Park and allow conflicting uses as outlined in this section.

**CITY OF NEWPORT
PUBLIC NOTICE¹**

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

File No. 4-CUP-18:

Applicants & Owners: Sylvia Beach Hotel, 267 NW Cliff St, Newport, OR 97365 (Justin Luckini, Luckini Construction Inc, PO Box 2313, Newport, OR 97365, authorized representative) (Sally Ford, Mateam Partnership, 267 NW Cliff St, Newport, OR 97365, property owner).

Request: Approval of a request per Chapter 14.23.010 "Historic Building and Sites" for alterations to a historic building (Sylvia Beach Hotel) to replace existing widows, replace damaged shingles, repair entrance roof, replace a man door, repair ceiling sheetrock, and possibly replace a rim joist.

Location/Subject Property: 267 NW Cliff Street, Newport, OR 97365 (Assessor's Map 11-11-08-BB, Tax Lot 12200).

Applicable Criteria: NMC Chapter 14.23.040: (1) No changes shall be made if the Planning Commission determines that such changes would detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance.

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

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

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

Time/Place of Hearing: Monday, December 10, 2018; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: November 7, 2018.

PUBLISHED: November 30, 2018 / News-Times.

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

MEMO

City of Newport
Community Development Department



****Distributed Via Email****

Date: November 7, 2018

To: Spencer Nebel, City Manager
Tim Gross, Public Works
Rob Murphy, Fire
Jason Malloy, Police
Mike Murzynksy, Finance
Jim Protiva, Parks & Rec.
Ted Smith, Library
Rachel Cotton, Associate Planner
Joseph Lease, Building Official
Public Utilities

From: Sherri Marineau, Executive Assistant

RE: Conditional Use Permit # 4-CUP-18

I have attached a copy of a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description and map, and a date for a public hearing. You may want to review this information to determine if there are any effects to your department and if you would like to make comments.

We must have your comments at least 10 days prior to the hearing period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

sm

Attachment

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

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

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

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

Email: Lisa Phillips
DLCD Coastal Services Center
lisa.phillips@state.or.us

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

Joseph Lease
Building Official

Rob Murphy
Fire Chief

Tim Gross
Public Works

Rachel Cotton
Planner

Jason Malloy
Police Chief

Mike Murzynsky
Finance Director

Ted Smith
Library

Jim Protiva
Parks & Rec

Spencer Nebel
City Manager

AGNELLO MARK S TRUSTEE
158 NATIONAL ST
SANTA CRUZ, CA 95060

BOXER CHARLOTTE A
4627 N CONGRESS AVE
PORTLAND, OR 97217

BRADLEY RAYMOND J
700 LAWRENCE ST
EUGENE, OR 97401

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

COPLEY C SIMONE
2000 NE 84TH AVE
PORTLAND, OR 97220

ECKSTEIN JUERGEN &
ECKSTEIN DIANNE
7534 SW SURFLAND ST
SOUTH BEACH, OR 97366

FITTS DOUGLAS E TRUSTEE &
FITTS VERNA L TRUSTEE
392 NW 3RD ST SP #1
NEWPORT, OR 97365

FORTUNE MICHAEL A TR &
FORTUNE LINDA TR
7635 NW MCDONALD CIRCLE
CORVALLIS, OR 97330

GULLERUD ERIC N &
GULLERUD CHERIE P
PO BOX 2475
CORVALLIS, OR 97339

HALCYON HOTELS LLC
ATTN MCCORMACK WINTHROP
2601 NW THURMAN ST
PORTLAND, OR 97210

HETH MICHAEL
258 NE 5TH ST
NEWPORT, OR 97365

JONES JOHN B
2140 LOS ANGELES AVE
BERKELEY, CA 94707

LEE APRIL M
PO BOX 1214
HOOD RIVER, OR 97031

LINCOLN COUNTY
% LINCOLN COUNTY PROP MGMT
880 NE 7TH ST
NEWPORT, OR 97365

LINCOLN COUNTY
225 W OLIVE ST
NEWPORT, OR 97365

MAPLES LINDA R TRUSTEE
130 W CEDAR ST
EUREKA, CA 95501

MATEAM PARTNERSHIP
ATTN FORD SALLY M
267 NW CLIFF
NEWPORT, OR 97365

MATNEY MARY OLIVE TRUSTEE
650 NE SHERWOOD WAY
CORVALLIS; OR 97330,

NEWMAN EMILY J
231 NW CLIFF ST
NEWPORT, OR 97365

NORTHAM JOYCE H TRUSTEE
4125 NW TAMARACK DR
CORVALLIS, OR 97330

OCONEILL KENNETH R TRUSTEE &
OCONEILL GWYNETH P TRUSTEE
220 WEST 23RD AVE
EUGENE, OR 97405

ROSE BRIAN S &
ROSE JULIE M
637 SE ST ANDREWS DR
PORTLAND, OR 97202

ROTH JOSEPH C &
ROTH PAULA C &
DIAZ RAMON STEPHAN
PO BOX 92
LOCKWOOD, CA 93932

VANWERT FRANCES C TRUSTEE
742 NW 2ND CT
NEWPORT, OR 97365

WETHERILL JAMES G &
WETHERILL LANA R
25804 NE OLSON RD
BATTLE GROUND, WA 98604

WOLCOTT KENT P &
WOLCOTT APRIL A
749 NW 3RD ST
NEWPORT, OR 97365

YAQUINA ART ASSOC
PO BOX 274
NEWPORT, OR 97365

LUCKINI CONSTRUCTION
ATTN: JUSTIN LUCKINI
PO BOX 2313
NEWPORT, OR 97365

Adjacent Property Owners Within 200 Ft

File No. 4-CUP-18

NOTICE OF PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, December 10, 2018, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-18, a request submitted by Sylvia Beach Hotel (Justin Luckini, authorized representative) (Sally Ford, Mateam Partnership, property owner) per NMC Chapter 14.23.010 "Historic Building and Sites" for alterations to a historic building (Sylvia Beach Hotel) to replace existing widows, replace damaged shingles, repair entrance roof, replace a man door, repair ceiling sheetrock, and possibly replace a rim joist.. The property is located at 267 NW Cliff Street, Newport, OR 97365 (Assessor's Map 11-11-08-BB, Tax Lot 12200). The applicable criteria per NMC Chapter 14.23.040 are: (1) No changes shall be made if the Planning Commission determines that such changes would detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above).

(FOR PUBLICATION ONCE ON Friday, November 30, 2018)

... finds as with and the rered : heard and e City nsider ake its ion on a request ioned

petition in write hear- Written be sent Board Olive, 97365. 7 issue iter in ing, or ements efficient and an espond cludes nd Use on that

in more n about cluding he pro- cated, County t, 880 lewport, is (541 ublic is and be cal, lan- accom- d meet- tact the 65-4100 65-4193 as pos- 48 hours 9. day of nt)).

ERIFF'S 820 O, 2018, :00 a.m., County 225 W 3, in the Oregon, s Inter- subject in the ommonly SE Hwy ; Oregon ;rt case 7/11637, Mortgage iff's) vs. Deborah orris and ndant(s). : auction idder for 's check, re details y.oregon/ y./county/ 23, N-30

TICE OF de to that rust made BROWN he Farm- nistration, Depart- ure, act- he State Farmers ration for egon, as or of the f America the Farm- nistration,

... under the obligation or Deed of Trust, and in addition to paying said sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and Deed of Trust, together with Trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.778.

In accordance with the Fair Debt Collection Practices Act, this is an attempt to collect a debt, and any information obtained will be used for that purpose. This communication is from a debt collector.

In construing this Notice, the singular includes the plural, the word "Grantor" includes any successor in interest to the Grantor as well as any other person owing an obligation, the performance of which is secured by said Deed of Trust, and the words "Trustee" and "Beneficiary" include its respective successors in interest, if any. DATED: October 17, 2018.

ALAN N. STEWART, Successor Trustee Merrill O'Sullivan LLP 805 SW Industrial Way, Suite 5 Bend, OR 97702 Telephone: 541-389-1770 N-16, N-23, N-30, D-07 (82-07).

IN THE CIRCUIT COURT OF THE STATE OF OREGON COUNTY OF LINCOLN CASE NO. 18PB05899

NOTICE TO INTERESTED PERSONS IN THE MATTER OF SCOTT MICHAEL NORLIN, DECEASED.

NOTICE IS HEREBY GIVEN that KEVIN W SPENCE has been appointed personal representative of the ESTATE of SCOTT MICHAEL NORLIN. All persons having claims against the estate are required to present them, with vouchers attached, to: Pacific Northwest Probate, LLC, 8865 SW Center Street Tigard, OR 97223, within four months after the date of first publication of this notice, or the claims may be barred.

All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court or the personal representative. Dated and first published on November 23, 2018. KEVIN W SPENCE PERSONAL REPRESENTATIVE N-23, N-30, D-07 (87-07).

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN

IN THE MATTER OF THE MARRIAGE OF: JASMINE WHITEHEAD, PETITIONER, AND JACOB VASQUEZ, RESPONDENT. TO: JACOB VASQUEZ, RESPONDENT. HOME/WORK ADDRESS: UNKNOWN CASE NO. 18DR06854

... court clerk or administra- tor within thirty (30) days along with the required filing fee. It must be in proper form and you must show that the Petitioner's attorney (or the Petitioner if he/she does not have an attorney) was served with a copy of the "response" or "Motion." The location to file your response is at the court address indicated above.

If you have questions, you should see an attorney immediately. If you need help finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll free elsewhere in Oregon at (800) 452-7636. If special accommodation under the Americans with Disabilities Act is needed, please contact your local court at the address above; telephone number. /s/Jasmine Whitehead Jasmine Whitehead, Petitioner. N-23, N-30, D-07, D-14 (93-14).

NOTICE OF PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, December 10, 2018, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 4-CUP-18, a request submitted by Sylvia Beach Hotel (Justin Luckini, authorized representative) (Sally Ford, Mateam Partnership, property owner) per NMC Chapter 14.23.010 "Historic Building and Sites" for alterations to a historic building (Sylvia Beach Hotel) to replace existing windows, replace damaged shingles, repair entrance roof, replace a man door, repair ceiling sheetrock, and possibly replace a rim joist.. The property is located at 267 NW Cliff Street, Newport, OR 97365 (Assessor's Map 11-11-08-BB, Tax Lot 12200).

The applicable criteria per NMC Chapter 14.23.040 are: (1) No changes shall be made if the Planning Commission determines that such changes would detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director, (541) 574-0626; d.tokos@newportoregon.gov (mailing address above). N-30 (95-30).

... appointment. The application deadline is December 28, 2018, by 5:00 P.M. Applications received after that date and time will not be considered.

The current and newly elected City Councilors will conduct interviews of the applicants at the City Council work session, at noon, on January 7, 2019, in Conference Room A, of the Newport City Hall. Appointments to fill the two vacancies will be made at the January 7, 2019 City Council organizational meeting, beginning at 6:00 P.M. All meetings will be held at City Hall.

Applications should be made by utilizing the committee application form found on the city website at www.newportoregon.gov. Click on "City Government," located under the photo of the bridge; then click on "Committee Application," and submit the application electronically. Anyone needing a hardcopy application may request one at the City Manager's Office, Newport City Hall, 169 SW Coast Highway, Newport. Questions may be directed to Spencer Nebel, at s.nebel@newportoregon.gov, or at 541.574.0603. N-30, D-14 (96-14).

EXHIBIT A (LEGAL DESCRIPTION)

A portion of U.S. Government Lot 21 in Section 9, Township 10 South, Range 10 West, Willamette Meridian in Lincoln County, Oregon, lying northwesterly of the northerly right of way line of the Toledo-Siletz Highway No. 229, and being more particularly described as follows: Beginning at the northwest corner of the above mentioned U.S. Government Lot 21; thence north 89° 46' 10" east, 135.12 feet along the north line of said Lot 21 to the true point of beginning; thence south 27° 40' East, 167.17 feet; thence south 59° 48' East, 138 feet, more or less, to the northwesterly right of way line of the above mentioned Highway No. 229; thence northeasterly 300 feet, more or less, along the northwesterly right of way of said Highway No. 229 to the said north line of said Lot 21; thence south 89° 46' 10" west, 380 feet, more or less, along the said north line to the true point of beginning. TOGETHER WITH an easement for a roadway, to be used with others, over and across a 50 foot strip of land lying adjacent to the southerly and westerly lines of said property, said roadway extending and running northwesterly from the northerly line of said Highway No. 229 as set forth in deed recorded August 5, 1981 in Book 126, page 342, Lincoln County Records. N-30, D-07, D-14, D-21 (97-21).

TRUSTEE'S NOTICE OF SALE

The Trustee under the terms of the Trust Deed described herein, at the

Trust Deed was recorded as follows:

Date Recorded: June 27, 2013, Recording No. 2013-06330 Re-Recorded June 3, 2014, Recording No. 2014-04608 Official Records of Lincoln County, Oregon

4. DEFAULT. The Grantor or any other person obligated on the Trust Deed and Promissory Note secured thereby is in default and the Beneficiary seeks to foreclose the Trust Deed for failure to pay: Monthly payments in the amount of \$1,535.93 each, due the first of each month, for the months of February 2018 through September 2018; plus late charges and advances; plus any unpaid real property taxes or liens, plus interest.

5. AMOUNT DUE. The amount due on the Note which is secured by the Trust Deed referred to herein is: Principal balance in the amount of \$205,472.57; plus interest at the rate of 3.625% per annum from January 1, 2018; plus late charges of \$280.54; plus advances and foreclosure attorney fees and costs.

6. SALE OF PROPERTY. The Trustee hereby states that the property will be sold to satisfy the obligations secured by the Trust Deed. A Trustee's Notice of Default and Election to Sell Under Terms of Trust Deed has been recorded in the Official Records of Lincoln County, Oregon.

7. TIME OF SALE. Date: February 7, 2019 Time: 11:00 a.m. Place: Lincoln County Courthouse, 225 W. Olive, Newport, Oregon

8. RIGHT TO REINSTATE. Any person named in ORS 86.778 has the right, at any time that is not later than five days before the Trustee conducts the sale, to have this foreclosure dismissed and the Trust Deed reinstated by payment to the Beneficiary of the entire amount then due, other than such portion of the principal as would not then be due had no default occurred, by curing any other default that is capable of being cured by tendering the performance required under the obligation or Trust Deed and by paying all costs and expenses actually incurred in enforcing the obligation and Trust Deed, together with the trustee's and attorney's fees not exceeding the amount provided in ORS 86.778.

NOTICE REGARDING POTENTIAL HAZARDS (This notice is required for notices of sale sent on or after January 1, 2015.) Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a

IN THE CIRCUIT COURT OF THE STATE OF OREGON


IN AND FOR THE COUNTY OF LINCOLN NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER, PLAINTIFF, VS.

UNKNOWN HEIRS AND DEVICES OF DALE L. JOHNSON, AKA DALE LEONARD JOHNSON; RACHAEL LUCILLE JOHNSON; STATE OF OREGON; PARTIES IN POSSESSION DEFENDANTS. NO. 18CV35361 CIVIL SUMMONS TO THE DEFENDANTS: Unknown Heirs and Devises of Dale L. Johnson, aka Dale Leonard Johnson

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY! A lawsuit has been started against you in the above-entitled Court by Nationstar Mortgage LLC d/b/a Mr. Cooper, Plaintiff. Plaintiff's claim is stated in the written Complaint, a copy of which is on file at the Lincoln County Courthouse. You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff. The object of the complaint is to foreclose a deed of trust dated October 27, 2009 and recorded as Document No. 2009-13021 given by Dale L. Johnson on property commonly known as 1541 SE 14th Street, Toledo, OR 97391 and legally described as: Commencing at the Southeast corner of Section 17, Township 11 South, Range 10 West, Willamette Meridian, Lincoln County, Oregon; thence North 0°25' East along the East line of said Section 17, 433.12 feet; thence West 489.66 feet to an iron rod; thence South 50 feet to the true point of beginning; thence East 50 feet; thence South 100 feet; thence West 125 feet and thence East 75 feet to the point of beginning. The complaint seeks to foreclose and terminate all interest of Unknown Heirs and Devises of Dale L. Johnson, aka Dale Leonard Johnson and all other interests in the property. The "motion" or "answer" ("reply") must be given to the court clerk or administrator within 30 days of the date of first publication specified herein along with the required filing fee. The date of first publication of the summons is September 28, 2018. If you are in the active military service of the United States, or believe that you

... #0948 com) H huhl@ 1499 Place, ver, W 7632 Suite 97224 (360)2 Fax (3 N-30, (98-21 IN COU FOR LIN IN THE RA CAS NOTI NOTI GIVEI nett I persc All pe again requi with v the p tive ; Oxfor of fir: notio be br All p may procc addil from courl reser neys rpr: Hagg Minc gerty New 265- Date Nov N-3C I COI FOI LI O TH CA INTI NO GIVI do per: All f aga req with to ti tativ Nev with the tion clai All ma: pro ad fro cor res ney rF Ha Mir ger Ne 26: Da No N-

Memorandum

To: Planning Commission
From: Derrick I. Tokos, AICP, Community Development Director 
Date: December 7, 2018
Re: Short-Term Rental Ordinance No. 2144 – Commission’s Preferred Alternatives

This December 10, 2018 continued public hearing is an opportunity for the public to comment on the preferred policy alternatives identified by the Planning Commission at its November 26th work session or other aspects of the draft ordinance.

Minutes from the November 26, 2018 work session, staff’s recommendation regarding preferred policy alternatives, and the Commission’s preferred policy alternatives, were posted to the city website. On Monday, December 3, 2018 the City provided notice of the upcoming hearing, with a web link to the materials, so that interested persons could review the recommendations. The notice was mailed and emailed to persons who have provided testimony on short-term rentals beginning fall of 2017, past and present short-term rental owners, and individuals that served on the Commission’s vacation rental ad-hoc work group.

Public comments received since the November 26th work session are enclosed. They include a letter from Norm Ferber that was submitted to the City Council and discussed at the December 3, 2018 Council meeting. A summary of the City Council discussion regarding Mr. Ferber’s letter is also attached. Commissioner Croteau reviewed the testimony and suggested that the Commission might want to entertain a one-time transfer option as a potential compromise. If the Commission is interested in this approach, it would be an option B.4., under proposed section 4.25.025 (Term of Annual Business License Endorsement and Transferability), which could read as follows:

B.4. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable, except where a property owner possesses an active business license and license endorsement for a vacation rental dated prior to July 1, 2019, in which case the endorsement may be transferred to a new owner.

If this option is selected then the sale or transfer language in section 4.25.030 should be retained. The Commission might also want to retain the sale and transfer definition in section 4.25.010 irrespective of whether or not this option is selected, as it clarifies what constitutes a sale. The same goes for the definition of transfer in section 14.01.010 (although that definition should match the one in section 4.25.010).

The Planning Commission has identified a preference for Map Alternative #3 or #4, both of which would prohibit vacation rentals in portions of the city. While staff does not concur with this approach, for the reasons outlined in our recommendation, we would point out that a strong case can be made that, of the two, Alternative #3 is more in line with the stated purpose of the regulations. This is both in terms of protecting the character of residential neighborhoods and the City’s supply of needed housing.

Residential neighborhoods are not exclusive to R-1 and R-2 zone districts, and the argument that the character of the neighborhoods in these zones must be protected because commercial uses, such as vacation rentals, are inherently incompatible should also hold true for R-3 and R-4 zones. After all, in many cases the neighborhoods are identical in density given that R-3 and R-4 zones also allow single-family detached and attached housing. The R-3 and R-4 zones do allow multi-family development and there are a number of mixed density neighborhoods in these zones; however, no clear rationale has been offered to suggest that higher density, in of itself, is more conducive to vacation rental use. Further, suggestions that R-3 and R-4 zones are more suitable for vacation rentals because other commercial uses are permitted in these zones does not hold up when considering the list of permitted uses contained in the Newport Zoning Ordinance. Only the R-4 zone allows commercial uses in any meaningful way and those limited allowances are almost exclusively subject to conditional use approval.

It is also likely that Alternative #3 would be more effective at protecting the City's supply of needed housing given that it would prohibit vacation rentals in R-3 and R-4 zoned neighborhoods that are well removed from tourist commercial areas. Apartments, condominiums, and townhouses are common in the R-3 and R-4 zones, and these types of housing are typically more affordable than single-family detached homes, which is the predominant form of development in the R-1 and R-2 zones. It is the City's goal to provide for the housing needs of the citizens of Newport in adequate numbers, price ranges, and rent levels commensurate with the financial capabilities of Newport households (Goal 1, Housing Element, Newport Comprehensive Plan). Of the two map alternatives still being considered, Alternative #3 is more in line with this goal as it would protect a broader range of housing types that Newport citizen rely upon for their long-term housing needs.

Included with this staff report is information I received from a homeowner in an R-2 zone that makes their property available as a bed and breakfast through a program administered by the International Chapter of the P.E.O. Sisterhood. It appears that there are three of these "host homes" in Newport. The way the program works is that guests make a donation to the P.E.O. Sisterhood, who in turn lines them up with a host family who provides a bed & breakfast service. Proceeds are used by the Sisterhood to fund scholarships for young women graduating from local high schools. The host families receive no financial compensation or tax benefit from participating in the program. These homes are not currently licensed as Bed & Breakfast Facilities and it is staff's view that they do not need to be licensed, under the existing and proposed codes, since the hosts are not receiving a fee for their services. The City's definition for "Bed & Breakfast Facility" requires there be a fee for the meal service. The Commission should consider whether or not this is a reasonable interpretation, or if changes should be made to the ordinance to better address these types of arrangements.

After taking public testimony, the Commission should determine if it needs any additional information before making a recommendation to the City Council. If additional information is needed, then it would be appropriate to continue the hearing to 7:00 pm, January 14, 2019, which is the Commission's next regular meeting date. If the Commission has what it needs, then it would be appropriate to close the hearing and enter into deliberations. It is likely that at least three motions will be needed. The first motion would be a recommendation on the Ordinance #2144 code provisions, including the preferred policy alternatives and any other changes. Motion #2 would relate to whether or not the Commission believes that the City should pursue the services of a third party vendor to assist with code enforcement, with the cost for such services ranging between \$20,000 and \$30,000 annually. The last motion should address the appropriate fee or range of fees the Commission believes should be charged for short-term rental licenses to cover at least a portion of the City's cost of administering the short-term rental licensing program.

Attachments

Notice of the 12/10/18 hearing; Minutes from the 11/26/18 Commission work session; Ord. #2144 Planning Commission preferred alternatives; Ord. #2144 Staff Recommendation; Map Alternatives #3 & #4; Information on the PEO Bed & Breakfast service; public comments; and excerpt from the 12-3-18 Council meeting minutes.

CITY OF NEWPORT
169 SW COAST HWY
NEWPORT, OREGON 97365

COAST GUARD CITY, USA



phone: 541.574.0629

fax: 541.574.0644

<http://newportoregon.gov>

mombetsu, japan, sister city

NOTICE OF CONTINUED PUBLIC HEARING
ON AN ORDINANCE AMENDING THE CITY OF NEWPORT'S
SHORT-TERM RENTAL REGULATIONS

On Monday, December 10, 2018, at 7:00 pm or soon thereafter, the Newport Planning Commission will reopen the continued public hearing on Ordinance No. 2144, amending the City of Newport's regulations for short-term rentals. An initial hearing on the ordinance was held on November 13, 2018. Roughly 50-60 people were in attendance, and 22 individuals testified. The Commission also received 47 letters and/or emails from concerned citizens, many of which were submitted the day of the hearing.

Ordinance No. 2144 includes a number of policy options recommended by the citizen committee that the Planning Commission pulled together to review the City's existing short-term rental regulations. The initial hearing provided the public an opportunity to testify about the options they support or oppose. After everyone testified, the Commission continued the hearing to December 10, 2018 and announced that it would consider the feedback and hold a work session on November 26th to narrow the options down to a set of preferred alternatives.

On November 26th the Commission discussed the policy alternatives and identified options that a majority of the members are inclined to support. An updated version of the ordinance, highlighting these preferred alternatives, has been prepared and this public hearing is an opportunity for interested persons to comment on the Commission's preferences or any other aspects of the draft ordinance. A staff recommendation was presented at the November 26th work session, and that document is also available for review and comment. After the Commission takes testimony, it will make a recommendation to the City Council. This may happen at the close of the December 10th hearing.

Public comments on draft Ordinance No. 2144, the staff recommendation, and the Planning Commission's set of preferred alternatives, are posted on the City website and can be accessed using the following link:

<http://newportoregon.gov/dept/cdd/VacationRentalDwelling.asp>

Sherri Marineau

From: Sherri Marineau
Sent: Monday, December 03, 2018 4:30 PM
Subject: Notice of Continued Public Hearing on an Ordinance Amending the City of Newport's Short-Term Rental Regulations
Attachments: Notice 12-10-18 Continued Hearing.pdf

Please see the attached notice of a continued public hearing with the Newport Planning Commission on draft Ordinance No. 2144 amending the City of Newport's Short-Term Rental regulations. This public hearing will be held on Monday, December 10, 2018, at 7:00 pm or soon thereafter in the City of Newport Council Chambers located at 169 SW Coast Hwy, Newport, OR 97365.

Public comments on draft Ordinance No. 2144, the staff recommendation, and the Planning Commission's set of preferred alternatives, are posted on the City website and can be accessed using the following link:
<http://newportoregon.gov/dept/cdd/VacationRentalDwelling.asp>.

If you have additional questions, please contact Derrick Tokos, Community Development Director, at (541) 574-0626 or email him at d.tokos@newportoregon.gov.

Regards

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

e-mails	
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perry.carla@gmail.com	*Updated Email Address
carmodys261@msn.com	
carolsuereinhard@gmail.com	
casacleaning30@gmail.com	
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catbriggs2@yahoo.com	
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eric.breon@gmail.com
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1232 SHOT POUCH RD
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LOS GATOS, CA 95033

RACHEL WOLD
12590 SW GLACIER LILY CIRCLE
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BERNARD & ROSALEE KEISCH
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KAY ANTHONY & SUE BURKHOLDER
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EUGENE, OR 97404

NYE PLACE, LLC / STEPHEN MADKOUR
13999 S CLACKAMAS RIVER DR
OREGON CITY, OR 97045

LARRY RABIDEAU
144 FT. FOSDICK CIRCLE
GIG HARBOR, WA 98335

REGATTA VACATIONS LLC
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SANDRA & BOB RINGO
14735 SW TIERRA DEL MAR DR
BEAVERTON, OR 97007

MARK & REBECCA DEBOER
1534 DEVONSHIRE PL
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WHALER MOTEL INC
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CELESTE MCENTEE
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PARQUE
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Owners of VRDS Past and Present
As of 11-30-18

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
November 26, 2018
5:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, and Jim Hanselman.

Planning Commissioners Present by Phone: Bill Branigan

PC Citizens Advisory Committee Members Absent: Dustin Capri (*excused*)

Public Members Present: Cathey Briggs, Cheryl Connell, Martha Winsor, Norm Ferber, Frank DeFilippis, Carla Perry, Jamie Michelle, Braulio Escobar, and Madeline Shannon.

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 5:00 p.m.

2. **Unfinished Business.**

A. **Identify Preferred Alternatives Out of Newport Short-Term Rental Ordinance Amendments (Draft Ordinance No. 2144).** Patrick opened the meeting and asked for the PC's input on how to go through the review. Berman asked if the PC was in agreement to do a cap. Hardy thought the entire premise of caps was poor. She said they wouldn't improve the housing situation and they couldn't define the character of neighborhoods objectively. Until they got past those road blocks and they considered the entire city as a neighborhood, and that all the violations that were cited as big bad VRDs were happening all over Newport by long term citizens, they couldn't differentially enforce laws against citizens. Croteau stated he vehemently objected to Hardy's statement. Tokos suggested reviewing each issue one at a time.

Croteau stated he didn't think a cap addressed the present day problem and the PC needed to talk about where VRDs would be located before discussing a cap. He said there was rationale for eliminating VRDs in single family neighborhoods. Croteau felt that VRDs were intrusive commercial enterprises and were the same as hotels and motels. He stated he wasn't willing to talk about caps until there was a discussion on where they should be allowed. Franklin stated he had no problem a 5 percent cap because it helped people rest easy about the city turning into Cannon Beach or Lincoln City where there were 8-9 percent. It let them know what the max number of VRDs should be set at and allowed the city to manage inventory. Franklin felt the biggest issue they faced was enforcement and how to enforce problem VRDs. He wanted to see a program where if a property was rented out, the neighbors would have an email that they could send to, and then an email would go to the City for record, and then a text would go to the police department, the homeowner, and the person renting the property so everyone was on the same page right away. This would deter existing homeowners to confront bad renters and kept the conflict out of dealing with nuisances. Franklin felt renters who got a text would be more prone to fix the nuisance. Hardy said this often didn't work and reminded the PC that not everyone did texting. Croteau said enforcement was an issue but felt this was different from caps.

Hanselman said he was suspicious of caps. He noted that a large portion of the city was not attractive for VRDS. He noted there was a section in town that had 2,200 homes that only had five VRDs there and was clearly not a place for VRDs. Hanselman said five percent of the 5,500 homes in Newport would mean 250-300 homes. These would be located in neighborhoods attractive to VRDs owners and would put more pressure on residential neighborhoods to live with VRDs. He didn't think they could use five percent and they needed to decide where VRDs were appropriate and not. Hanselman said people bought in residential zones because of the lack of commercial, but now the city was allowing it in residential. He felt until they knew where VRDs belonged and not belonged, and how many VRDs the city could support, caps were difficult to determine.

Berman said the concern the public brought forth about adding a level of uncertainty for potential buyers was a disincentive for the housing market. He agreed that there needed to be an overlay of problem areas and they should set caps in those areas. There should be some way to slow down the growth of VRDs while supporting the tourist economy. Berman stated he didn't think VRDs should be allowed in R-1 and R-2 zones because they were commercial enterprises and incompatible with the nature of low density residential neighborhoods. He said the cap number should be left up to the Community Development Department and the City Council.

Branigan agreed with Hanselman and Berman. Before setting caps they needed to decide where to allow VRDs. He said the biggest influx of new residents in Newport were retirees and the city was becoming more of a retirement community. It was hard for retirees to settle in neighborhoods when there were a lot of VRDs in them.

Patrick said it looked like most of the PC was wanting to ban VRDs in R-1 and R-2 zones. He wanted to point out that there was a second home problem in Newport and every one of these VRDs would stay as second homes. He thought they would end up with a problem with empty neighborhoods and the areas where VRDs would be banned would become dead neighborhoods without anyone there. Patrick didn't think the City could enforce a ban in R-1 and R-2 zones. They could ban them, but there would still be VRDs in those zones. He noted he worked with VRD owners who only rented their units out to pay taxes. There would still be the same problems if they banned VRDs and would mean enforcement problems. If they took VRDs out of Nye Beach, they would end up with a dead neighborhood there. The area needed people in the neighborhood to survive. Patrick pointed out that this would affect property values and cause them to go down. He didn't want the PC to make a rule they wouldn't be able to enforce. Patrick stated he wasn't opposed to caps.

Croteau noted that prior to 2012 VRDs were allowed but greatly restricted. Now they were commercial enterprises that operated 24/7 in residential zones. He said they couldn't compare the two. Croteau didn't think any neighborhoods would become a ghost town. He stated the bulk of the citizens felt VRDs should be out of residential. Hanselman said second homes would become long term rentals and didn't take away from second homes. He said long term rentals would do well in Newport and thought they would be an option to help people to pay off their mortgages. There were ways to get people into second homes without creating vacation rentals. Hanselman said when homes weren't empty, there were neighbors there looking out for each other's homes. Patrick noted there wasn't a lot of neighbors in South Shore. Berman thought South Shore was different because the whole nature and feel of the place wasn't a neighborhood at all. He said the consideration of banning VRDs in Nye Beach had not been mentioned before. Patrick interjected that there were people who gave testimony that they were concerned about loading up Nye Beach with VRDs. Berman said spacing requirements would be done carefully enough so that this wouldn't happen. He didn't think there would be a whole lot of spaces opening up in Nye Beach for VRDs, and if someone wanted to do a VRD there and there was no spots, they would need to go somewhere else. Berman thought the whole argument that nobody wanted to build VRDs across the highway was true because all of the VRDs had been concentrated in areas that may or may not be appropriate, including R-1 and R-2 zones on the west side of the highway. If they made a conscious effort to spread them out, they would get takers east of the highway. Berman didn't see that the argument of 5 out of 2,200 housing units was relevant because when there was a choice of having an ocean view lot or a lot on such as San-Bay-O Drive, they would choose the ocean view first.

Tokos asked the PC how they wanted to work through the balance of policy options. Croteau asked if the public comment could happen now. Tokos said there wouldn't be enough time for the commission to complete its work if comment was taken on each issue. Branigan asked about the Nye Beach Overlay that Wendy Engler brought up. Tokos said the way it played in was if there were some legitimate concerns on where the VRDs would be concentrated if they limited VRDs in certain areas. If VRDs were prohibited in areas, they needed to think about what areas it pushed VRDs into. Patrick thought it looked like the PC would vote 4-3 to take VRDs out of R-1 zones. Tokos suggested the PC work through each option and see how far they got in the meeting.

Tokos opened the discussion on transferability provision alternatives. Berman agreed with the staff and said he would choose option B.3. Croteau said he didn't have a problem with a transfer of use but had a problem with transfer of a business license with a cap in place. It created problems and made things unfair. Croteau said the problem he had was if there was a cap and licenses transferred, it didn't allow for others on the waitlist to get a license. Hardy asked if a business license was currently automatically transferable or not. Tokos said they were not but there wasn't a cap. He said the question was whether or not the license under the cap was reserved for the new owner. A discussion ensued regarding the differences between businesses and VRDs. Franklin didn't like that on one hand they were saying to limit businesses and then on the other saying they could transfer a business license. He thought they would be encouraging the VRD homes to be bought by investors. Norm Ferber addressed the PC and said all of his VRD homes would need to be re-separated into three lots if this happened and he would incur costs. He noted his property was created as a motel. Hanselman said that B.1 was cut and dry and would make it easier for enforcement. He felt it was the best choice. Branigan agreed with Hardy in terms of business licenses not being automatically transferable and thought B.1 would be the best option. Patrick said it was safer with B.3 and thought B.1 would mean the city would run into issues when there was a cap. A discussion ensued regarding how Measure 49 applied. Tokos noted what he was hearing was the majority of the PC were leaning toward B.1.

Tokos opened the discussion on guest registry. The PC members were in general consensus with option 2.2.

Tokos opened the discussion on overlay zones. Hardy stated she objected to the staff recommendation because the character of neighborhoods had not been sufficiently and objectively defined, and didn't think the tie to needed housing had been proved because things were no different for over five decades. She didn't have a problem with putting commercial operations in commercial zones and restricting them in R-1 and R-2 zones, which should be residential. She said she favored Alternatives 3 or 4. Croteau said Alternatives 1 and 2 didn't address the problems. He opted for Alternative 3 and thought Alternative 4 should also be included because there was good rationale for this. He felt commercial operations were intrusive and shouldn't be in family neighborhoods. He wanted it noted that using median was a statistic that was meaningless without considering a mode and a range. Croteau said the median was the middle of a range of numbers and was being used to rationalize that houses were inappropriate for workforce housing because they cost too much. He noted how five of the houses in his neighborhood that were now VRDs were owned by people who were in the workforce before. Croteau didn't want to use median unless they knew what they were talking about. He noted he couldn't imagine the city paying someone \$100,000 a year to enforce VRDs in the overlay zones and felt it would be difficult to support. Croteau said he didn't support a cap alone and wanted Alternatives 3 and 4.

Franklin stated he wasn't happy with any of the maps. He felt certain neighborhoods needed VRDS because there was a certain desire for people to vacation there because there were views of the light house, bay, and ocean. He felt the maps put a blanket over Newport that didn't consider how the town looked and where the areas were. He felt the maps did an injustice to the great homes in Newport. Franklin felt there were some areas in residential zones that needed to restrict VRDS such as behind Fred Meyers. He felt the VRDs on Alternative 3 were a lot of units to lose and didn't like it. Hanselman asked what the problem was for losing VRDs. Franklin felt they were a huge part of the community for tourism and didn't like the idea of taking away from VRDs that were businesses that were operating without problems. He felt they should take away problem VRDs instead. Without having the license be transferable would mean their spot would open up for other VRDs. Alternative 3 meant VRDs would be pushed into the Bayfront and Nye Beach areas. Hanselman didn't agree with this and felt that residents needed to be able to say no to VRDs in their neighborhoods. Branigan said he liked Alternative 3 or 4. Branigan thought that if a lot of VRDs were removed and there was a demand for VRDs, maybe someone would build hotels instead. He didn't feel limiting VRDs would destroy the tourist industry. Berman said in 2012 he said that VRDs shouldn't be allowed in R-1 and R-2 zones but was outvoted. He strongly felt that R-1 and R-2 zones weren't appropriate for commercial ventures. He favored Alternative 4 but thought Alternative 3 would also be appropriate. Branigan reminded that the IRS designated VRDs as a business expense and since businesses weren't allowed in R-1 and R-2 zones this was another reason why they shouldn't be allowed. Patrick didn't like Alternatives 3 or 4 and thought both would open up a can of worms. He cautioned the PC to be wary of demonizing the out of towners who paid taxes in Newport who didn't use the services didn't live here. Hanselman said they used the services but maybe not the same as someone who lived here. Patrick noted that there were a lot of businesses run out of residences. He said enforcement was going to be a problem because VRDs would be run underground if they were restricted in residential. Hanselman didn't feel they were demonizing VRDs and said there was always going to be problems and work arounds. Tokos said that what he had heard was that a majority of the PC were in favor of Alternatives 3 or 4 and the minority view was to not have an Alternative map at all.

Tokos opened the discussion on the cap standards. Patrick felt before they started the discussion he wanted to know what they were taking a percentage of. Tokos said it was all dwelling units of public record in the city, which was about 5,500. Patrick stated that this didn't work if you took VRDs out of Alternatives 3 and 4, and if it wasn't proportional, it wasn't a workable concept. He said if they were going to do a percentage it had to be from the areas where VRDs were allowed. Hanselman agreed and felt 5,500 wasn't appropriated number to calculated from. He agreed that they needed to know where VRDs would be located first then thought it could be around 3 percent from there. Patrick felt if there was a percentage it would be from where they would be allowed, not the whole city. Tokos said if they were looking at limiting them to a small number of the housing units, then these percentages wouldn't make sense. Croteau said the problem with citywide percentages would be that they allowed more VRDs in different areas. Berman asked what the number of housing units were in Alternatives 3 and 4. Tokos said if the point was to have a cap wherever VRDs were permitted, then this was as far as the PC could go here. Patrick thought they should set the cap above where it was now because they would be adding houses and losing houses in different areas. A discussion ensued regarding how to set the cap numbers. Tokos said what he had heard was that there was a desire to set some form of a cap and would need to see the number of housing units for Alternatives 3 and 4. A discussion ensued regarding how caps would change the influx of VRDs in other areas, and discussed how caps would work with spacing and density restrictions in areas where they were allowed. Patrick felt Alternative 4 would be good with a straight cap and Alternative 3 would have caps for spacing/density. Tokos said for the PC members who favored Alternatives 3 and 4, what he heard was they wanted to know the number of housing units and were open to entertaining some sort of density limits.

Tokos opened the discussion on spacing standards next. He said if Alternative 4 was chosen, B.1 wasn't valid. Berman liked the street segment approach. Hanselman didn't like long street segments that allowed one every 5 and didn't think it was what the public was asking for. Tokos said most street segments were 5-7 homes and on a long street they would

be able to do a conditional use if there were over 10 on the street segment. Hardy was leaning towards B.1. Croteau was okay with B.1. Branigan, Berman and Franklin were also okay with B.1.

Tokos opened the discussion on occupancy next. Berman said C.2 was his preference and didn't see a justification for reducing what the city had now and asked what the rationale was. Tokos said there was a discussion about occupancy in terms of overnight and there was general agreement at the last ad-hoc meeting to peg maximum occupancy to occupancy of the unit at any time, not just overnight. There was a concern on overuse of VRDs and too many people showing up at the unit. There was also the party issue that came into play. Hardy said she limited the units she managed to two people per bedroom only. She was in favor of C.3. Franklin said he was leaning toward C.1. Berman reminded the PC that the ad-hoc work group eliminated the word "overnight" for occupancy. Hardy didn't think a total premise occupancy limit was reasonable otherwise they would have to put everyone with a back yard BBQ out of business. Croteau said the ad-hoc workgroup discussion came down to the point on whether they could prohibit things like weddings, reunions, and retreats. The discussion then came down to them not wanting to eliminate events but wanted to set a limit on occupancy on the premises. He wasn't willing to go against this judgement. Hanselman said the thought was they would look to find larger places to rent for these events and weren't looking to shut them out. Franklin suggested if someone wanted to have more people at one time, they could get a parking permit to allow more occupants. Tokos said that would need a whole different code structure. Franklin listed an example of how Sun River had the police drop off cones to designate the unit was having a special event and had permission. Hanselman said the Police Department couldn't do this and had a hard time covering enforcement. Branigan said he opted for overnight occupancy limited to two persons per bedroom, and limit during the day from 10 a.m.-5 p.m. and allow up to double the number of occupants on the property because people would be stopping by. Franklin thought the plus two argument would mean people would get pull out couches to sleep on. Croteau was fine with C.1 and thought anything else became cumbersome. He thought realistically neighbors were good about not calling in complaints unless they were real complaints. Patrick was fine with C.1. Tokos said what he heard was a majority favored C.1.

Tokos opened the discussion on parking standards. Berman didn't have a problem with E.2. Croteau was good with E.2. Hardy and Branigan agreed. Berman thought occupancy should say limited to two plus two or based on the parking standards. Tokos said both standards needed to be met before a VRD was licensed. Berman thought occupancy needed to say that lack of parking would reduce the occupancy. Hardy didn't think this was doable. Hanselman said it was doable because occupancy would be based on the lesser number of bedrooms or parking spaces. Tokos said there wasn't an explicit cross reference in the code, but VRDs needed to meet both standards.

Tokos opened the phase out standards next. Franklin was in favor of A.1. He felt they shouldn't take away from current VRDs and it was best to let them work their way out. Croteau opted for A.3. He wasn't sure with the five year phase out because of concerns with Measure 49. Croteau thought five years was excessive but thought if there was good evidence that five years was reasonable and defensible by documentation for other municipalities and case law, he was willing to listen. He was fine with A.3 but wasn't sure of the five years. Berman said the City Attorney said no less than five years. Croteau said he appreciated this but said it was a legal opinion without any documentation. Hanselman thought five years was too long and liked A.3. Berman liked A.3 and wanted it to be longer than five years. Tokos said the City Attorney said no less than five years and the ad-hoc workgroup suggested five years. Hanselman said other municipalities used three years and thought it was something to look further into and why the ad-hoc workgroup thought three years was fair. Franklin suggested that the five years could be given to certain areas like the C-2 and C-3 areas where VRDs would be continued to be allowed, and if in the R-1 and R-2 they went the direction of prohibiting VRDs, it would be immediately over for them. Tokos wanted to be clear that the five years came from ad-hoc workgroup and the City Attorney said no less than five years. The City Attorney didn't offer an opinion on what the number should be, just that it should be no less than five years. Hanselman said the ad-hoc workgroup didn't have consensus, and other municipalities did three years. He imagined these municipalities did their work on determining this and thought it needed to be looked into more. Franklin asked what kind of timeframe they gave in Bend. Tokos didn't know. Croteau thought it was three years and why he wanted documentation. Tokos said what he heard was a majority was in favor of A.3. Hardy said she was in favor of A.2. Berman wanted to know if there were any Measure 49 cases filed in the state based on this and if so, were they successful. Branigan stated he opted for A.3 and thought the five years the ad-hoc workgroup wanted was what they should follow.

Tokos said what he was hearing was that on the December 10th public hearing the PC would be focusing on Alternatives 3 and 4, were interested in entertaining density limits for the remaining areas where VRDs were permitted with a housing unit number in those areas, and then the rest of the items would map out explicitly. The PC was in general agreement on this. Tokos asked if there were any other provisions they wanted to discuss. Hanselman said when proximity rules were written there needed to be a rule on which VRD would be phased out. The PC reminded him that A.3 stated this. Berman said that under penalties, he would hate to see renters miss out on their reservations if on the second penalty the owner could not rent for 30 days. He didn't want to see renters lose deposits because of bad owners and felt this was problematic. Tokos said it was intended as a disincentive for someone not following the rules. Berman said there was

several comments on liability insurance requirements. He said the city didn't require liability insurance for someone to run businesses in general and there was comments about there needing to be a million dollar policy. Berman asked why there was an example listed on the sale and transfer and didn't think an example was needed because they didn't list an example anywhere else. Patrick said they needed to add something on the third party enforcement and thought it could be a line item for the next meeting. Franklin wanted to know what the third party would do for enforcement.

3. **Public Comment.**

Martha Windsor addressed the PC and pointed out that when looking at Alternative Maps 3 versus 4, currently in Nye Beach the C-2 zones had 21 percent VRDs and the R-4 zones were about 7 percent. She said there were serious issues with decreasing the availability in areas when removing VRDs. Nye Beach was already at maximum levels.

Carla Perry addressed the PC and asked what kind of enforcement the city would go through to ensure that the VRDs who were phased out were no longer operating. Berman said this would tie into enforcement and the third party vendors. Perry was concerned because there were already VRDs operating without licenses. Tokos said it would be done by code enforcement and there would be a notice in advance that they would be doing a phase out. If someone didn't stop renting, it would move to a civil infraction. Perry asked if it needed to be spelled out in the code. Tokos said it was in the code under civil infractions and how they would be dealt with. Franklin asked about people operating VRDs underground. Tokos said if they were advertising through an intermediary there would be room taxes to notify the city. In rare instances where they had a bartering system, these VRDs would be dealt with case by case.

Patrick said the five years phase out should also include change of ownership to be phased out immediately.

Wendy Engler addressed the PC and asked if the PC looked at the map for Nye Beach that Tokos gave her. She asked the PC to discuss this before the adoption of the ordinance. She didn't want the city to get into having to do another Measure 49 mailing because they accidentally had the density at 50 percent in Nye Beach. Tokos said the PC had a copy of the map in their packets. What they heard was that the interest was in some sort of cap within areas where VRDs were permissible and spacing would apply strictly in the R-1 and R-2 zones. Engler asked that the PC consider Nye Beach and felt the area was being ignored. She said the PC was deciding how they were shaping Newport and wanted thought to be taken on how Nye Beach needed a refinement plan. Engler wanted the PC to get more specific for Nye Beach before making a decision. Croteau thought this had to be done with consideration on how Nye Beach was going to look after all everything was done. Hanselman thought it needed to be revisited. He felt the parking in the area was an issue and noted VRDs in the area that received conditional use permits for relief of parking because of the parking district.

Pam McElroy addressed the PC and said she was in favor of the occupancy policy alternatives with C.1 being forwarded. She thought "at any time" needed to be added to the C.1 statement.

Jamie Michelle addressed the PC and said she pushed for the words "at all time" and if they restricted to the licensed occupancy, they would impact the quality of living. She said rather than restricting VRDs city wide, if there were regulations with teeth it would weed out the bad players over time. Michelle thought the PC should consider putting rules in place with strong teeth and then reevaluate in a couple of years. She reminded the PC that there were public members who said they had VRDs next to them who were delightful. She said if the affordable housing was a big deal, take a portion of license fees and taxes and put them toward a fund to deal with the housing issue.

4. **New Business.** No new business.

5. **Director's Comments.** No Director comments.

6. **Adjournment.** Having no further discussion, the meeting adjourned at 7:03 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A single-family dwelling used as a short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, "present" means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. ~~Sale or Transfer~~. ~~Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).~~

Exceptions:

- ~~1. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to license termination so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the license held by the transferor shall terminate.~~

Commission: At this time a majority of the members do not support transferability of business license endorsements, in which case this definition is not needed.

2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license termination.
- I. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility or Home share, where the entire dwelling unit is rented for less than 30 consecutive days.

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
 1. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
 2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
 3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.

4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.
5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration
 - b. A copy of an Oregon Driver's License or Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)
9. Good Neighbor Guidelines. Acknowledgement of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting

it online, providing it in a conspicuous place in the dwelling unit, or a similar method.

10. Listing Number. For renewals, the listing numbers or website addresses of where the short term rental advertises.
11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).
12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).
13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).
14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.

B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.

C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.

POLICY ALTERNATIVES

B.1. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable.

or

B.2. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable only in those cases where the property is commercially zoned.

or

B.3. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable in those cases where the property is within, or across the street from, a commercial zone.

Commission: Transferability is relevant if the city limits the total number of annual licenses it issues, and a majority of the Commission members are inclined to support a cap in areas where vacation rentals are permissible.

In areas where vacation rental dwellings would be permitted under a cap, a majority of the Commission members are inclined to support Alternative B.1. They are concerned that allowing business license endorsements to be transferred would be unfair to others interested in operating vacation rentals once a cap is reached, and that it might encourage properties with endorsements to be bought up by investors (as opposed to persons who purchase a dwelling and operate it as a vacation rental for a period of time before they relocate to Newport). Members also expressed reservations with the mechanics of making endorsements transferable and felt that Alternative B.1. would be easier to enforce.

Commission members that support this alternative are not persuaded that owners of vacation rentals in areas that are transitioning to, or are entirely within commercial zones, should have an absolute right to sell the units as vacation rentals, even in circumstances where the dwelling units were built for the sole purpose of being used for transient rental purposes.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - c. Sale or Transfer of Property. ~~For business license endorsements that are eligible to be transferred pursuant to NMC 4.25.025(B), it is the obligation and responsibility of the new owner to obtain a new endorsement in order to operate the short-term rental. The new owner shall have 60 days from the date of ownership (closing of the sale) to apply for and receive a new business license endorsement. The business license endorsement obtained by the prior owner shall remain in effect during the 60-day period within which the new owner must obtain an endorsement.~~

Commission: At this time a majority of the members do not support transferability of business license endorsements, in which case this provision is not needed.

2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the "qualified person" may be changed from time to time

throughout the term of a license. To do so, the license information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent's control. In an emergency or absence, contact forwarding information to a qualified person may be provided to the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a small, non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short term rental and obtain the owner, authorized agent, and/or representative's name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new

endorsement and may be required for renewals at the City Manager's discretion.

- a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.
- b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
- c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
- d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
- e. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required.
- f. Electrical plug-ins and light switches shall have faceplates.
- g. Electrical breaker boxes shall have all circuits labeled, and empty breakers spaces must be plugged.
- h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.
- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements.

- j. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.
 - k. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.
8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is suspended or revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement involving the same property for a period of two years.

D. Additional Operational Requirements

1. **Complaints.** The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.

POLICY ALTERNATIVES

*2.1. **Guest Registry.** Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders upon request.*

or

*2.2. **Guest Registry.** Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders and non-emergency city personnel upon request.*

Commission: Emergency responders need access to guest registry information so that, in the event of a catastrophic event, they can identify who was in the unit. That same information can be useful in enforcement actions and room tax auditing purposes, both of which are legitimate government activities. Online intermediaries, such as Airbnb, are not required to provide cities with room tax reports that track back to individual units; therefore, the City will need tools like this if it is to perform its own auditing. For these reasons, the Commission believes that alternative 2.2 is the appropriate choice.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:

- a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
- b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
- c. The property address.
- d. The number of approved parking spaces.
- e. The maximum occupancy permitted for the short-term rental.
- f. Any required information or conditions specific to the operating license.
- g. The City of Newport official logo.

4. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster, power outage, or other emergency. Required information includes, but is not limited to:

- a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
- b. Phone numbers and addresses for emergency responders and utility providers.
- c. Other information as established by resolution of the City Council.

5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Required landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street. City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.
11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.

12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental where the owner does not hold a valid endorsement issued pursuant to this section.
- B. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.
- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to

respond" occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (B-E) shall be as follows:

- A. For the first violation within a 12-month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner's short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner's short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

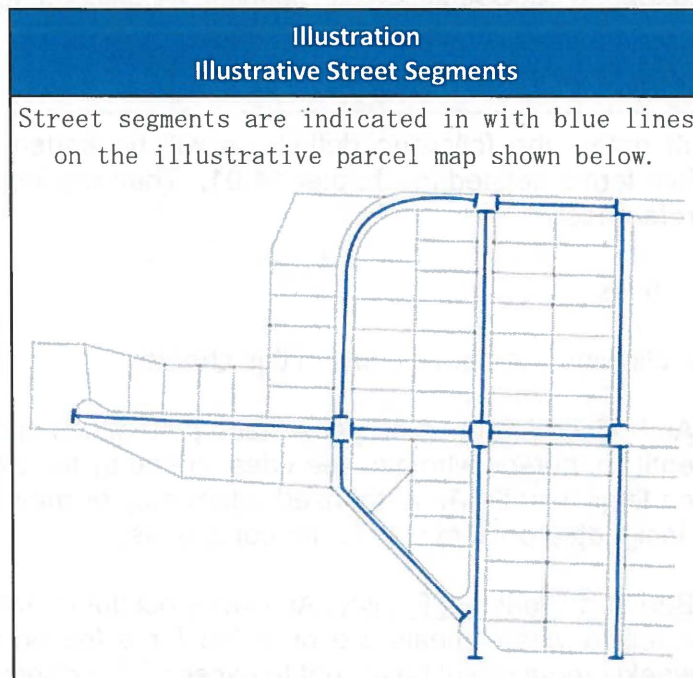
(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

14.01.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. An owner occupied, single-family dwelling where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Street Segment. A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. See *Illustration: Illustrative Street Segments, below.*



- ~~I. Transfer. Means the addition or substitution of owners not included on the original business license endorsement application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.~~

Commission: At this time a majority of the members do not support transferability of business license endorsements, in which case this definition is not needed.

- J. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility, where the entire dwelling unit is rented for less than 30 consecutive days.
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14.25.010 Approval Authority

- A. Upon receipt of a request by an owner or authorized agent to complete a land use compatibility statement for a short-term rental the Community Development Director, or designee, shall determine if the request satisfies the standards of section 14.25.030. If the request satisfies the standards, then the Director shall sign the statement confirming that short-term rental is a permitted use. Such action is ministerial and, as a non-discretionary act, is not subject to appeal.
- B. In the event that the Community Development Director or designee, determines that an application does not meet one or more of the standards of section 14.25.030, then the land use compatibility statement shall not be signed.
- C. If one or more of the standards under section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process, pursuant to section 14.34.010. Such an application is subject to review by the Planning Commission via a Type III decision making process, consistent with section 14.52.010, and is to be limited in scope to those standards that cannot be satisfied.
- D. A Conditional Use Permit may authorize more than one vacation rental on street segments where ten or more lots or parcels front the street. In such cases, no more than one vacation rental may be permitted for every five lots or parcels fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

14.25.015 Submittal Requirements

Land use compatibility statements shall be submitted on a form provided by the Community Development Department, and shall include the following:

- A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations.
- B. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.
- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 Establishment of a Vacation Rental Overlay Zone

(Staff note: this subsection is only required if one of the four map alternatives, or a variation of one of the maps, is selected as the basis of an overlay. It will be removed if policy makers decide that an overlay is not needed.)

A Vacation Rental Overlay Zone is hereby established identifying areas within the city limits where vacation rentals have been identified as compatible uses and areas where they are prohibited in order to protect the City's supply of needed housing and character of residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.

Commission: A majority of the Commission members favor map alternatives #3 or #4. The rationale behind these two alternatives are different. Map alternative #3 limits vacation rentals to areas in close proximity to tourist commercial uses. Vacation rentals would be permissible in all residential zones located in close proximity to these tourist venues. Alternative #4 prohibits vacation rentals in low and medium density single family residential zones under the premise that commercial enterprises of that nature are incompatible in these residential areas. Vacation rentals would continue to be allowed in medium and high density multi-family zones (R-3 and R-4 districts) and commercial areas.

Members in support of these map alternatives are of the view that vacation rentals, where entire units are rented on a transient basis, are commercial enterprises that are incompatible with, and adversely impact the character of neighborhoods that are exclusively residential and not proximate to tourist commercial areas. There was less agreement as to whether or not such a restriction would have a meaningful impact on the City's supply of needed housing. A minority of the members preferred that none of the map alternatives be adopted.

14.25.025 Allowed Locations

POLICY ALTERNATIVES

A.1.a. Home share and Bed & Breakfast Facility use of a dwelling unit is permitted in all residential and commercial zone districts.

and

A.1.b. Vacation rental use of a dwelling unit is permitted in those areas where they are identified as allowed uses on the Vacation Rental Overlay Map (Select Map Alternative).

or

A.2. Short-term rental use of a dwelling unit is permitted in all residential and commercial zone districts.

Commission: For the reasons noted above, a majority of the members prefer Alternative A. 1. Unlike a vacation rental, a home share or bed & breakfast facility has a permanent resident onsite (i.e. the owner), which a majority of the members see as more compatible in a residential setting.

14.25.030 Approval Standards

POLICY ALTERNATIVES

A.1. Density. The total number of vacation rentals shall be capped at level not to exceed five (5) percent of the dwelling

units within the city. A specific cap number shall be established by City Council resolution.

or

A.2. Density. The total number of vacation rentals shall be capped at level not to exceed four (4) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

or

A.3. Density. The total number of vacation rentals shall be capped at level not to exceed three (3) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

(Staff Note: The density limit alternatives are specific to vacation rentals and would not apply to home shares or bed and breakfast facilities. The Ad-hoc work group discussed establishing a hard cap between 200 and 300, which is roughly 4- 5% of the City's housing stock. This option allows the Council to specify the specific number and adjust it from time to time as additional housing units are constructed. At its 10/22/18 work session, the Planning Commission put forth a third option of 3%, which is about 165 units or 80% of the number of short-term rentals currently licensed in the city. Alternative approaches include adjusting the percentage, applying the cap to specific geographic areas, or not imposing a density limit.)

Commission: Members in support of map alternatives #3 or #4 are inclined to support the establishment of a license limit for vacation rentals in areas where they continue to be permitted. Percentages referenced in this draft code section are based upon the City's entire housing stock, which is roughly 5,500 units. The Commission would like a percentage limit to be based upon the number of dwellings in the permitted areas.

For map alternative #3, there are roughly 2,050 dwellings that fall within the permitted area, with about 7.3% of the units (149) being licensed as vacation rentals. If the Commission were to take an approach similar to the Ad-hoc work group, then a range of 8% (164 units) up to 10% (205 units) would be reasonable, with a specific number being set by Council resolution.

For map alternative #4, there are roughly 3,300 dwellings that fall within the permitted area, with about 4.3% of the units (142) being licensed as vacation rentals. If the Commission were to take an approach similar to the Ad-hoc work group, then a range of 5%

(165 units) up to 7% (231 units) would be reasonable, with a specific number being set by Council resolution.

Commission members will further discuss the appropriate cap level after taking public testimony at the December 10, 2018 public hearing.

POLICY ALTERNATIVES

B.1. Spacing. *In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection.*

or

B.2. Spacing. *In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection. In R-3 and R-4 zones, where both sides of the street segment are zoned for residential use, the same standards apply as those specified for R-1 and R-2 zones with the exception being that one multi-family dwelling or single dwelling is permitted per street segment.*

Commission: The Commission members support alternative B. 1. This will require a handful of vacation rentals to be phased out of R-1 and R-2 zoned areas. This policy alternative will prevent vacation rentals from being concentrated on a particular residential street segment or block, which impacts livability and character of residential areas. The Commission received testimony from persons worried about vacation rentals being concentrated on a particular street segment or block, and this alternative addresses that concern. Alternative B.2. extends the same principal to R-3 and R-4 zone districts; however, this method of trying to disperse units is not as effective when applied to mixed density areas and could prohibit townhouse and condo developments that were specifically designed for use as short term rentals. It is important to note that alternative B. 1. is only relevant to map alternative #3. There is no need for the spacing standard in map alternative #4, since it would prohibit vacation rentals in R-1 and R-2 zones.

POLICY ALTERNATIVES

C.1. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.

or

C.2. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, excluding children under three (3) years of age.

or

C.3. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom.

Commission: The majority of the members believe that C.1. is appropriate, in light of the fact that this standard is now the maximum occupancy of the unit at any time, as opposed to just maximum overnight occupancy. Many of the concerns raised by the public regarding occupancy were related to potential nuisance impacts attributed to large parties, which would exceed the occupancy allowance under C.1.

D. Guestroom Limitations. The following limitations apply to the number of bedrooms within a dwelling unit that may be occupied by guests staying at a short-term rental.

- 1. Vacation Rentals. A maximum of five (5) bedrooms.**
 - 2. Home shares. A maximum of two (2) bedrooms.**
-

POLICY ALTERNATIVES

E.1. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

or

E.2. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use, unless the dwelling unit is within a parking district as defined in section 14.14.100, in which case on-street parking may be used to meet the one (1) space per bedroom requirement provided the parking is allocated in accordance with the requirements of the parking district. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

Commission: There was general agreement that alternative E.2 is the appropriate standard. The City has established a handful of parking districts where it provides public parking in lieu of requiring businesses construct off-street parking. In such cases, vacation rentals should have a right to use on-street spaces in the same manner as other commercial uses.

F. Shared Access. Short-term rentals that rely upon use of shared access and parking areas may only be permitted if a covenant or other binding legal instrument establishes that the owner of the unit maintains exclusive use of the required parking space(s).

G. Landscaping. For short-term rentals situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements.

14.25.035 **Non-Conforming Short Term Rentals**

POLICY ALTERNATIVES

A.1. The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals that received endorsements prior to the effective date of this ordinance.

or

A.2. The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter, except the spacing requirements of subsection 14.25.030(B).

or

A.3. The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter. In cases where there are two or more vacation rentals along a street segment, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement of subsection 14.25.030(B).

Commission: A majority of the members are inclined to support Alternative A.3. There was some disagreement as to whether or not five (5) years provides existing vacation rental operators a reasonable amount of time to bring their units into full compliance with the new rules, with some arguing the number should be lower and others higher. This alternative addresses the handful of units that would need to be phased out because there is more than one vacation rental on a particular street segment. Such language will not be needed if map alternative #4 is selected, meaning the Commission would default to alternative A.2. There was general agreement that the final language should be revised to include a provision that would require units to comply immediately upon change of ownership.

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A single-family dwelling used as a short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, "present" means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).

Exceptions:

1. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to license termination so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the license held by the transferor shall terminate.

2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license termination.
- I. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility or Home Share, where the entire dwelling unit is rented for less than 30 consecutive days.

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
 1. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
 2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
 3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.
 4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability

insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.

5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration
 - b. A copy of an Oregon Driver's License or Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)
9. Good Neighbor Guidelines. Acknowledgement of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.

10. Listing Number. For renewals, the listing numbers or website addresses of where the short term rental advertises.
 11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).
 12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).
 13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).
 14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.
- C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

- A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.

POLICY ALTERNATIVES

B.1. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is not transferable.*

or

B.2. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is transferrable only in those cases where the property is commercially zoned.*

or

B.3. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is transferrable in those cases where the property is within, or across the street from, a commercial zone.*

Staff: Transferability is relevant if the city limits the total number of annual licenses it issues and it is our recommendation that such a limit be put in place. The justification for limiting transferability is to avoid circumstances where use of a dwelling for commercial purposes in a residential neighborhood becomes permanent, potentially impacting the supply of needed housing and the character of residential areas. Eliminating license transferability in residential areas would serve as a disincentive to anyone looking to purchase units for exclusive use as a vacation rental while, at the same time, it would not impose a barrier to those looking to operate a vacation rental for a period of time before they transition to Newport on a more permanent basis (assuming there is license availability under a cap).

It is difficult to apply this rationale to areas that are transitioning to or are entirely within commercial zones, as there is an expectation in these areas that dwelling units would be built for the sole purpose of being used for transient rental purposes and may lack the functional amenities (e.g. storage, office space, etc.) that persons would need if they were living in the units on a long term basis. Alternative B.3. balances these interests.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - c. Sale or Transfer of Property. For business license endorsements that are eligible to be transferred pursuant to NMC 4.25.025(B), it is the obligation and responsibility of the new owner to obtain a new endorsement in order to operate the short-term rental. The new owner shall have 60 days from the date of ownership (closing of the sale) to apply for and receive a new business license endorsement. The business license endorsement obtained by the prior owner shall remain in effect during the 60-day period within which the new owner must obtain an endorsement.

2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the "qualified person" may be changed from time to time throughout the term of a license. To do so, the license

information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent's control. In an emergency or absence, contact forwarding information to a qualified person may be provided to the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a small, non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short term rental and obtain the owner, authorized agent, and/or representative's name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.

- a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.
- b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
- c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
- d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
- e. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required.
- f. Electrical plug-ins and light switches shall have faceplates.
- g. Electrical breaker boxes shall have all circuits labeled, and empty breakers spaces must be plugged.
- h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.
- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements.
- j. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace,

appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.

- k. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.
8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is suspended or revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement involving the same property for a period of two years.

D. Additional Operational Requirements

1. Complaints. The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.

POLICY ALTERNATIVES

2.1. Guest Registry. *Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders upon request.*

or

2.2. Guest Registry. *Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders and non-emergency city personnel upon request.*

Staff: Emergency responders need access to guest registry information so that, in the event of a catastrophic event, they can identify who was in the unit. That same information can be useful in enforcement actions and room tax auditing purposes, both of which are legitimate government activities. Online intermediaries, such as Airbnb, are not required to provide cities with room tax reports that track back to individual units; therefore, the City will need tools like this if it is to perform its own auditing. For these reasons, staff recommends the Commission select alternative 2.2.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:
 - a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
 - b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
 - c. The property address.
 - d. The number of approved parking spaces.
 - e. The maximum occupancy permitted for the short-term rental.
 - f. Any required information or conditions specific to the operating license.
 - g. The City of Newport official logo.
4. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster, power outage, or other emergency. Required information includes, but is not limited to:
 - a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - b. Phone numbers and addresses for emergency responders and utility providers.
 - c. Other information as established by resolution of the City Council.

5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Required landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street. City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.
11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.

12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental where the owner does not hold a valid endorsement issued pursuant to this section.
- B. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.
- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to

respond” occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (B-E) shall be as follows:

- A. For the first violation within a 12-month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner’s short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner’s short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.

DRAFT

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

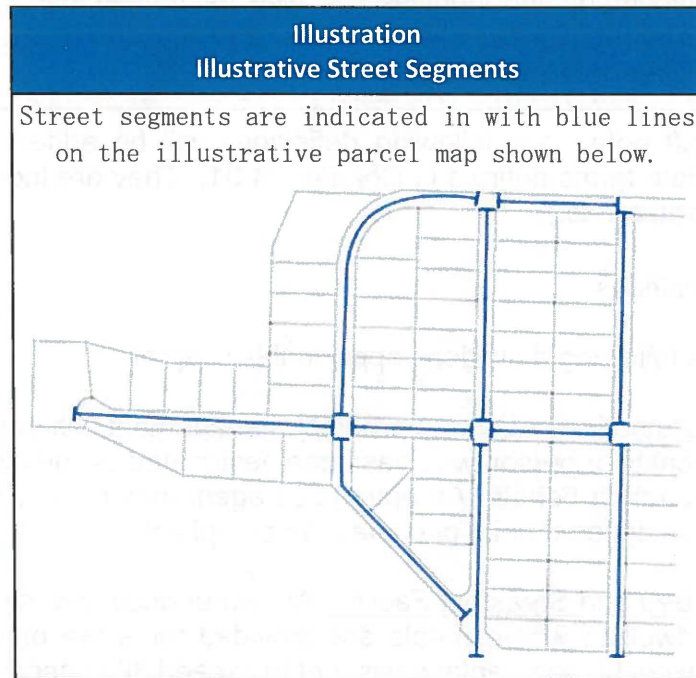
(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

14.01.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. An owner occupied, single-family dwelling where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- E. Home share. A short term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short Term Rental. A dwelling unit that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Street Segment. A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. See *Illustration: Illustrative Street Segments, below*.



- I. Transfer. Means the addition or substitution of owners not included on the original business license endorsement application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.
- J. Vacation Rental. A short term rental, other than a Bed and Breakfast Facility, where the entire dwelling unit is rented for less than 30 consecutive days.

14.25.010 Approval Authority

- A. Upon receipt of a request by an owner or authorized agent to complete a land use compatibility statement for a short-term rental the Community Development Director, or designee, shall determine if the request satisfies the standards of section 14.25.030. If the request satisfies the standards, then the Director shall sign the statement confirming that short-term rental is a permitted use. Such action is ministerial and, as a non-discretionary act, is not subject to appeal.
- B. In the event that the Community Development Director or designee, determines that an application does not meet one or more of the standards of section 14.25.030, then the land use compatibility statement shall not be signed.
- C. If one or more of the standards under section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process, pursuant to section 14.34.010. Such an application is subject to review by the Planning Commission via a Type III decision making process, consistent with section 14.52.010, and is to be limited in scope to those standards that cannot be satisfied.
- D. A Conditional Use Permit may authorize more than one vacation rental on street segments where ten or more lots or parcels front the street. In such cases, no more than one vacation rental may be permitted for every five lots or parcels fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

14.25.015 Submittal Requirements

Land use compatibility statements shall be submitted on a form provided by the Community Development Department, and shall include the following:

- A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations.
- B. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.

- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 Establishment of a Vacation Rental Overlay Zone

~~(Staff note: this subsection is only required if one of the four map alternatives, or a variation of one of the maps, is selected as the basis of an overlay. It will be removed if policy makers decide that an overlay is not needed.)~~

~~A Vacation Rental Overlay Zone is hereby established identifying areas within the city limits where vacation rentals have been identified as compatible uses and areas where they are prohibited in order to protect the City's supply of needed housing and character of residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.~~

Staff: We recommend that the Commission not adopt a zoning overlay at this time as a tight license cap, coupled with spacing standards for low density areas, is likely to be more effective at protecting the character of neighborhoods and the City's supply of needed housing, which are the policy objectives that could support an overlay.

All four map alternatives would prohibit vacation rentals from areas where they have been historically allowed, with alternatives #3 and #4 impacting 25% to 30% of the existing licensed vacation rentals. Uses should be prohibited only if it can be shown that less restrictive measures cannot achieve policy objectives, because the end result is the elimination of a property right that many have relied upon when purchasing and investing in their properties. Map alternatives #1 and #2 are of limited value because they apply to areas that are far enough away from the beach and tourist-oriented commercial districts that they are not attractive for vacation rental use. Map alternatives #3 and #4 prohibit vacation rental uses in some residential neighborhoods and not others without a clear explanation as to why the character of some neighborhoods need to be protected through such a prohibition and others do not. This is problematic if the policy

objective is to protect the character of all residential neighborhoods. Concerns expressed by several Nye Beach area residents relate to this issue, as they are rightfully concerned that the adoption of one of these alternatives will lead to further concentration of vacation rentals in their neighborhoods.

With respect to needed housing, map alternatives #3 and #4 appear to favor the prohibition of vacation rental use of higher priced dwellings while allowing them to continue on residential properties that are more affordable (see attached summary of Vacation Rental Market Values). A fair amount of testimony has been submitted expressing concern that vacation rentals are taking away units that would otherwise be available as month to month rentals or as homes that would be available to the local workforce. Vacation rentals in R-1 and R-2 zoned areas, which these map alternatives are largely directed at, have a median market value of \$418,821 (per Zillow estimate). This is a very narrow slice of the City's needed housing, as this price point is outside of the range of what most of the City's workforce can afford, and may be most attractive to dual income working professionals and persons retiring to Newport from more affluent markets.

If map alternative #3 or #4 is adopted, then roughly 60 vacation rental operators could be required to wind down their operations, most of which have been renting their properties without documented complaints. It is likely that the City would need to invest in additional code enforcement staff, in addition to a third-party contract, both to ensure that the rentals are taken off the market and to police the areas on an ongoing basis. An additional code enforcement staff person, with benefits, could cost the city around \$100,000 a year. Elimination of up to 60 vacation rentals, without some other off-set, is likely to result in a reduction in room tax collections in the amount of \$125,000 to \$150,000. Fiscal impacts of this nature, where costs are added at the same time revenues are constricted is a significant considerations for city policymakers.

14.25.025 Allowed Locations

POLICY ALTERNATIVES

A.1.a. Home share and Bed & Breakfast Facility use of a dwelling unit is permitted in all residential and commercial zone districts.

and

A.1.b. Vacation rental use of a dwelling unit is permitted in those areas where they are identified as allowed uses on the Vacation Rental Overlay Map (Select Map Alternative).

or

A.2. Short-term rental use of a dwelling unit is permitted in all residential and commercial zone districts.

Staff: For the reasons noted above, we are not recommending that one of the map alternatives be adopted; therefore, alternative A.2. would be the appropriate option to select.

14.25.030 Approval Standards

POLICY ALTERNATIVES

A.1. Density. The total number of vacation rentals shall be capped at level not to exceed five (5) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

or

A.2. Density. The total number of vacation rentals shall be capped at level not to exceed four (4) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

or

A.3. Density. The total number of vacation rentals shall be capped at level not to exceed three (3) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.

(Staff Note: The density limit alternatives are specific to vacation rentals and would not apply to home shares or bed and breakfast facilities. The Ad-hoc work group discussed establishing a hard cap between 200 and 300, which is roughly 4- 5% of the City's housing stock. This option allows the Council to specify the specific number and adjust it from time to time as additional housing units are constructed. At its 10/22/18 work session, the

Planning Commission put forth a third option of 3%, which is about 165 units or 80% of the number of short-term rentals currently licensed in the city. Alternative approaches include adjusting the percentage, applying the cap to specific geographic areas, or not imposing a density limit.)

Staff: We recommend the Planning Commission pursue Alternative A.1. but suggest it recommend the Council, by resolution, set the cap number at a figure equivalent to the number of vacation rentals currently licensed, or in the process of being licensed. That initial cap number would be less than the 5% maximum that could be established by resolution, and if adopted at the same time the Council acts on Ordinance No. 2144, would effectively put in place a moratorium until a new resolution is adopted. This would give the City time to roll out the new rules. Once the new rules are in place, the Council could, over time, incrementally increase the cap number to account for new residential development. This type of active management will prevent rapid increases in the number of vacation rentals being licensed and allows the Council to link increases in the number of vacation rental licenses to the health of the housing market, consistent with the policy objective of protecting the city's supply of needed housing. Additionally, a tight cap furthers the policy objective of protecting the character of residential neighborhoods because it limits the growth of vacation rentals without favoring certain neighborhoods over others.

Alternative A. 1. prohibits the Council from establishing a cap level in excess of five (5) percent of the dwelling units within the city. This provides policy makers with a reasonable amount of flexibility. The five (5) percent threshold is also in line with what other cities, with a diverse economic base, have imposed.

POLICY ALTERNATIVES

B.1 Spacing. In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection.

or

B.2 Spacing. In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation

rental is permitted on the corner lots that abut the intersection. In R-3 and R-4 zones, where both sides of the street segment are zoned for residential use, the same standards apply as those specified for R-1 and R-2 zones with the exception being that one multi-family dwelling or single dwelling is permitted per street segment.

Staff: We recommend the Commission adopt alternative B.1. This will require a handful of vacation rentals to be phased out of R-1 and R-2 zoned areas. This policy alternative will prevent vacation rentals from being concentrated on a particular residential street segment or block, which impacts livability and character of residential areas. The Commission received testimony from persons worried about vacation rentals being concentrated on a particular street segment or block, and this alternative addresses that concern. Alternative B.2. extends the same principal to R-3 and R-4 zone districts; however, this method of trying to disperse units is not as effective when applied to mixed density areas and could prohibit townhouse and condo developments that were specifically designed for use as short term rentals (see problem street segment example on the street spacing maps).

POLICY ALTERNATIVES

C.1. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.

or

C.2. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, excluding children under three (3) years of age.

or

C.3. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom.

Staff: We recommend that the Planning Commission select alternative C.1. in light of the fact that this standard is now the maximum occupancy of the unit at any time, as opposed to just maximum overnight occupancy. Most concerns raised related to occupancy were related to potential nuisance impacts attributed to large parties, which would exceed the occupancy allowance under C.1.

- D. Guestroom Limitations. The following limitations apply to the number of bedrooms within a dwelling unit that may be occupied by guests staying at a short-term rental.
1. Vacation Rentals. A maximum of five (5) bedrooms.
 2. Home shares. A maximum of two (2) bedrooms.

POLICY ALTERNATIVES

E.1. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

or

E.2. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use, unless the dwelling unit is within a parking district as defined in section 14.14.100, in which case on-street parking may be used to meet the one (1) space per bedroom requirement provided the parking is allocated in accordance with the requirements of the parking district. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

Staff: We recommend the Planning Commission select alternative E.2. The City has established a handful of parking districts where it provides public parking in lieu of requiring businesses construct off-street parking. In such cases, vacation rentals should have a right to use on-street spaces in the same manner as other commercial uses.

-
- F. Shared Access. Short-term rentals that rely upon use of shared access and parking areas may only be permitted if a covenant or other binding legal instrument establishes that the owner of the unit maintains exclusive use of the required parking space(s).

G. Landscaping. For short-term rentals situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements.

14.25.035 Non-Conforming Short Term Rentals

POLICY ALTERNATIVES

A.1. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals that received endorsements prior to the effective date of this ordinance.*

or

A.2. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter, except the spacing requirements of subsection 14.25.030(B).*

or

A.3. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter. In cases where there are two or more vacation rentals along a street segment, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement of subsection 14.25.030(B).*

Staff: Alternative A.3. provides existing vacation rental operators a reasonable amount of time to bring their units into full compliance with the new rules, and addresses the handful of units that would need to be phased out because there is more than one vacation rental on a particular street segment. The other options either allow existing vacation rentals to operate indefinitely under old rules, or they exempt rentals from having to meet the spacing standards, neither of which is as consistent with the policy objectives of Ordinance No. 2144.

2017 Assessor's Real Market Values for Vacation Rentals

All Rentals Count: 203	Low: \$42,438 High: \$1,714,300 Median: \$283,100	Rentals R-1/R2 Zones Count: 60	Low: \$131,340 High: \$991,720 Median: \$390,930
Single Family Dwellings Count: 108	Low: \$131,340 High: \$1,714,300 Median: \$346,680	Rentals R-3/R-4 Zones Count: 70	Low: \$42,438 High: \$1,116,420 Median: \$303,130
Condos/Duplexes Count: 95	Low: \$42,438 High: \$743,420 Median: \$195,620	Rentals C-2/W-2 Zones Count: 73	Low: \$71,780 High: \$1,714,300 Median: \$176,970
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,438 High: \$684,410 Median: \$302,930		

2018 Zillow Estimate of Real Market Value

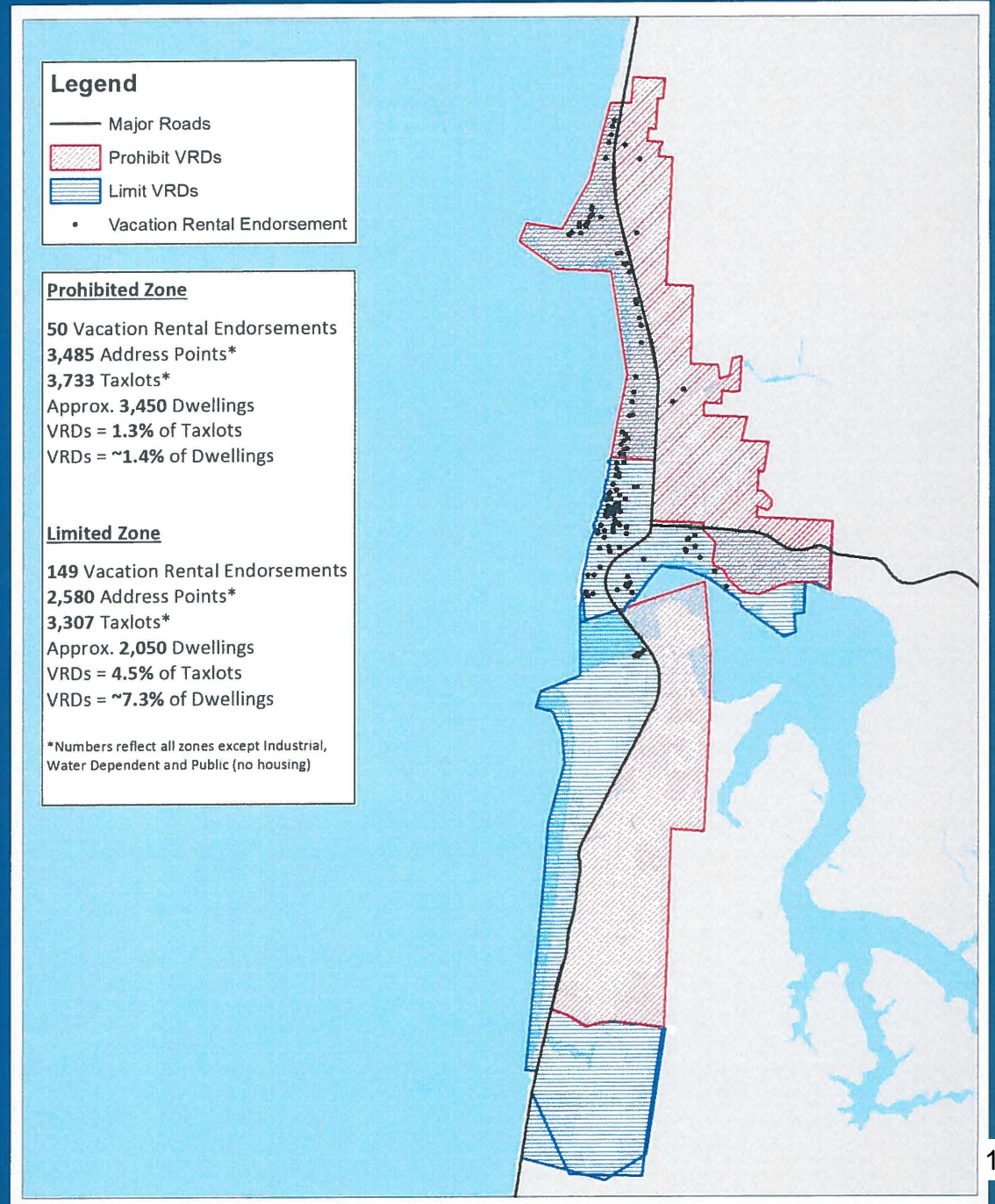
All Rentals Count: 203	Low: \$42,284 High: \$1,714,300 Median: \$312,555	Rentals R-1/R2 Zones Count: 60	Low: \$142,210 High: \$1,100,852 Median: \$418,821
Single Family Dwellings Count: 108	Low: \$141,140 High: \$1,714,300 Median: \$379,240	Rentals R-3/R-4 Zones Count: 70	Low: \$42,284 High: \$1,282,223 Median: \$331,628
Condos/Duplexes Count: 95	Low: \$42,284 High: \$743,420 Median: \$232,328	Rentals C-2/W-2 Zones Count: 73	Low: \$91,446 High: \$1,714,300 Median: \$228,528
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,284 High: \$684,410 Median: \$316,522		

Note: Real market estimates from the County Assessor or Zillow do not necessarily align with the asking price of dwellings that are listed for sale. For example, one of the vacation rentals has an assessor's real market value of \$437,120 and Zillow estimated value of \$568,002, but is being marketed for sale at \$749,000.

Zillow estimates were available for 184 of the 203 vacation rentals (91%). In those cases where an estimate was not available, the County Assessor's 2017 real market value was used.

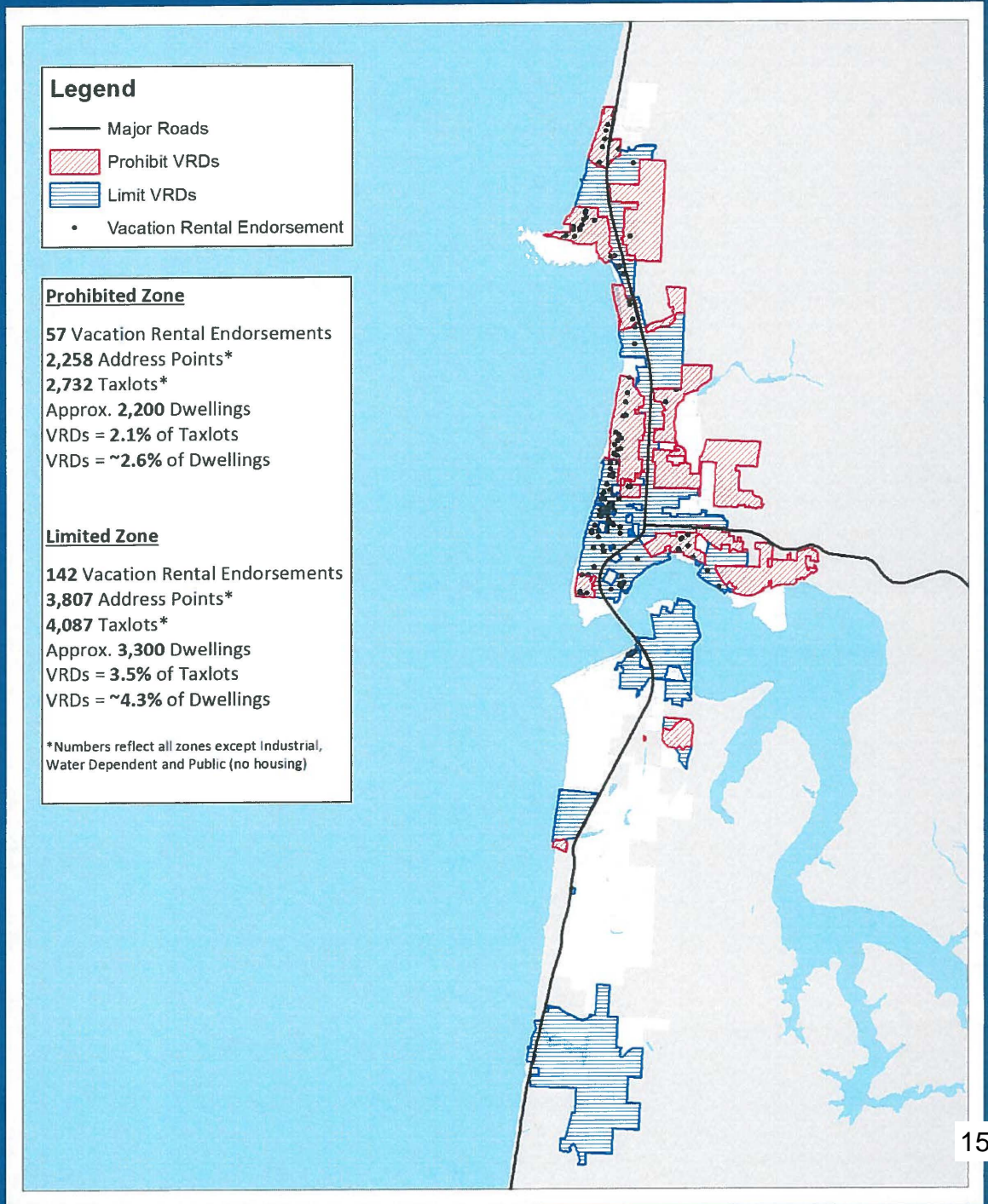
MAP ALTERNATIVE III

- LIMITS VRDs TO AREAS CLOSE TO TOURIST COMMERCIAL USES
- CAP AND SPACING REQUIREMENTS TO BE APPLIED WHERE VRDs ARE ALLOWED
- SIGNIFICANT NUMBER OF EXISTING VRDs IN PROHIBITED AREAS WHERE THEY WOULD BE PHASED OUT OVER TIME



MAP ALTERNATIVE IV

- PROHIBITS VRDs IN R-1 AND R-2 ZONED AREAS
- RATIONALE IS THAT THESE AREAS ARE THE MOST REMOVED FROM COMMERCIAL ACTIVITIES AND THE LARGER LOT SIZES MAKE THEM MORE PRONE TO NUISANCE IMPACTS FROM LARGE GATHERINGS
- CAP AND SPACING REQUIREMENTS MAY BE APPLIED WHERE VRDs ARE ALLOWED IN R-3/R-4
- SIGNIFICANT NUMBER OF EXISTING VRDs IN PROHIBITED AREAS WHERE THEY WOULD BE PHASED OUT OVER TIME





International Chapter P.E.O. Sisterhood

P.E.O. Executive Office
3700 Grand Avenue
Des Moines, Iowa 50312-2899

515-255-3153
Fax 515-255-3820

April 1, 2018

Thank you for your interest in becoming a P.E.O. Bed and Breakfast (B&B) local chapter hostess. We often hear from sisters and their BILs regarding their wonderful experiences with new friends they have met through the program and it has provided a home away from home for many while generating dollars for our P.E.O. projects.

The P.E.O. Bed & Breakfast program started in 1981 with a single listing – now there are almost 700 participating chapters. It has provided thousands of dollars to support the International Chapter projects.

Prior to becoming a Bed & Breakfast chapter, please review the P.E.O. Bed & Breakfast Guidelines, as well as insurance information. Both of these documents are always available on the P.E.O. International Member Website for your reference. Here is the link for quick reference:

<https://members.peointernational.org/resource-library/listings-directories/bed-breakfast-listings>

To participate in the Bed & Breakfast service, please complete the annual fee form and return it with your chapter's check for the appropriate amount to:

Attn: Communications Assistant
P.E.O. International
3700 Grand Avenue
Des Moines, Iowa 50312-2899

Once received, your listing will be placed on the member site peointernational.org. The B&B online listing allows for current information to be available for potential guests as well as protects the privacy of members who are included as part of the listing. As a reminder, you are able to request updates to your listing at any time with the online listing. In addition, an enhancement to the website also allows members to print the current listing in full (or for any state, province or district) on their home printer.

Thank you again for your interest in sponsoring a B&B listing and supporting “women helping women reach for the stars.”

Kate Westercamp

Kate Westercamp
Director of Communications and Historian
International Chapter of the P.E.O. Sisterhood

GUIDELINES FOR BED AND BREAKFAST

1. International Chapter requires that a Bed and Breakfast (B&B) service be sponsored by a **local chapter**, not by an individual member of the chapter. Bed and Breakfast may not be sponsored by a P.E.O. Group or a reciprocity.
2. Local chapters shall not sponsor for the P.E.O. Bed and Breakfast service anyone who conducts a Bed and Breakfast as a personal business for profit.
3. If a member of a local chapter volunteers to entertain in her own home a sister P.E.O. and guests who travel with her, her chapter may vote to sponsor a Bed and Breakfast service.
4. Bed and Breakfast guests will be asked to identify themselves with a current P.E.O. membership card.
5. The Bed and Breakfast program is available to P.E.O. members and their guests who travel with them.
6. The charge for the B&B service is determined by the local chapter.
7. To avoid possible conflict with tax liability and state/local regulations, checks given to the hostess are to be made payable to the local chapter sponsoring the Bed and Breakfast service, **not to the hostess.**
8. If the chapter wishes to reimburse the hostess for her expenses, the amount of reimbursement is to be mutually determined. Payment will then be made to the hostess by the local chapter treasurer.
9. Neither the guest nor the hostess may claim the amount charged for the B&B service as a charitable contribution to one of the P.E.O. projects.
10. It is not required that the P.E.O. listed on the P.E.O. website be a hostess for B&B guests. She may be the contact person for the chapter's B&B service. It is her responsibility to make the reservations for the B&B guests with those members of the chapter who have volunteered to be hostesses. Chapters may have several B&B hostesses.
11. It is required that the local chapter sponsoring a Bed and Breakfast service purchase insurance coverage through International Chapter. Payment for this coverage must be received before a chapter's B&B service will be listed on the website.
12. Because this insurance may not cover alcohol-related claims, it is recommended that alcoholic beverages not be served to guests.
13. The net income from a local chapter's B&B service must be used exclusively for P.E.O. charities qualified under U.S. Internal Revenue Code Section 501 (c)(3), including International Chapter P.E.O. projects, funds held in P.E.O. Foundation, and/or other charitable state chapter projects. No portion of B&B income may be used for chapter operating expenses.

14. The local chapter treasurer shall report details of B&B receipts and disbursements on Form IRS-LC, Annual Summary of Treasurer of Local Chapter. This form is sent to the local chapter treasurer in February. Included on the form shall be an itemized account of how the profit was expended.

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P.E.O. International Bed & Breakfast Insurance Coverage

P.E.O. International maintains general liability insurance coverage to protect the organization, including state and local chapters, from claims arising from bodily injury or property damage suffered by guests staying in homes of P.E.O.s that participate in the Bed & Breakfast Program. The P.E.O. "host participant" is also covered by this insurance.

Please note the following:

- There is no insurance coverage for theft or damage to the host participant's home or personal property.
- There is also no coverage for theft or mysterious disappearance of a guest's personal property. Damage to a guest's personal property may be covered if it arises from the negligence of the host participant.
- All incidents involving injuries to guests should be reported to the insurance carrier as quickly as possible. Be prepared to provide a brief description of the incident, including any medical treatment sought by an injured guest.
- While this insurance is primary, situations may arise wherein the host participants may be requested to also notify their personal insurance carrier.

To report an incident, call or email LMC Insurance & Risk Management:

Anne MacFarland, J.D. anne.macfarland@lmcins.com
or

Kay Dilks kay.dilks@lmcins.com

Toll free number: 800-747-5652

If you have any problem reaching the insurance company, call the executive director,
Jackie Matt, at the P.E.O. Executive Office, 515-255-3153, Extension 3701.

B&B, 4-17



International Chapter P.E.O. Sisterhood

P.E.O. Executive Office
3700 Grand Avenue
Des Moines, Iowa 50312-2899

515-255-3153
Fax 515-255-3820

Annual Fee Bed and Breakfast Insurance

Please complete this form, enclose your check for the appropriate amount (**\$60 per chapter — add \$25 for each additional contact name or area** the chapter wishes to have in the listing on P.E.O.'s website), sign the form and send it to the address below.

CHAPTER _____ CITY _____
S/P/D _____

Enclosed is check number _____ dated _____ for \$ _____, payable to the P.E.O. Sisterhood, for liability insurance covering Bed and Breakfast activities **through February 28, 2019.**

IF YOU ARE AN EXISTING B&B your current insurance coverage is extended (at no charge) through February 28, 2019. In early 2019, B&B chapter presidents will receive the annual fee form.

Our B&B listing should appear as shown below:

TREASURER OF
CHAPTER _____
(signature)

TREASURER'S EMAIL ADDRESS _____

Mail to: Communications Assistant, P.E.O. Executive Office, 3700 Grand Avenue,
Des Moines, Iowa 50312-2899

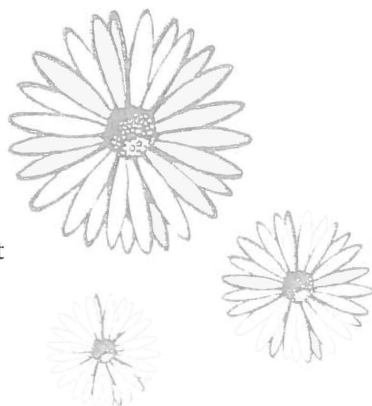
The P.E.O. Mission Statement

P.E.O. is a Philanthropic Educational Organization where women celebrate the advancement of women; educate women through scholarships, grants, awards, loans and stewardship of Cottey College; and motivate women to achieve their highest aspirations.

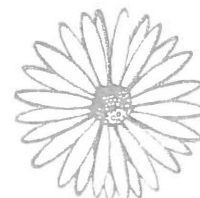
Learning about P.E.O. and Our Philanthropies

P.E.O. was established in 1869, placing it among the oldest women's organizations in North America. Originally started as a friendship society at Iowa Wesleyan University, Mount Pleasant, Iowa, P.E.O. has evolved into one of the largest nonsectarian, community-based organizations with nearly 6,000 chapters and almost a quarter of a million members. P.E.O. has chapters in each of the 50 United States, District of Columbia and in six Canadian provinces. Headquarters are in Des Moines, Iowa.

As a philanthropic organization, P.E.O. supports six philanthropies that include ownership of Cottey College, a woman's college offering baccalaureate and associate degree programs, and five programs that provide higher educational assistance through scholarships, grant, awards and loans. These P.E.O. philanthropies were developed to assist women in furthering their education. Local P.E.O. chapter fundraisers are one of the ways to support these programs. The cumulative amount of assistance provided to recipients is more than \$280 million. Each of P.E.O.'s six educational philanthropies is classified 501(c)(3) by the United States Internal Revenue Service.



Cottey College is a fully accredited liberal arts and sciences college for women offering baccalaureate and associate degree programs, leadership opportunities, and arts and athletic programs. Located in Nevada, Missouri, Cottey is owned and has been supported by the P.E.O. Sisterhood since 1927, making it the only nonsectarian institution of higher learning in the country solely owned and supported by women.



P.E.O. Educational Loan Fund (ELF) is a revolving loan fund established in 1907 to lend money to qualified women students to assist them in securing a higher education.

P.E.O. International Peace Scholarship Fund (IPS) was established in 1949 to provide scholarships for international women students to pursue graduate study in the United States and Canada.

P.E.O. Program for Continuing Education (PCE) was established in 1973 to provide need-based grants to women in the United States and Canada whose education has been interrupted and who find it necessary to return to school to support themselves and/or their families.

P.E.O. Scholar Awards (PSA) was established in 1991 to provide substantial merit-based awards for women of the United States and Canada who are pursuing a doctoral level degree at an accredited college or university.

P.E.O. STAR Scholarship (STAR) was established in 2009 to provide scholarships for exceptional high school senior women to attend an accredited postsecondary educational institution in the United States or Canada in the next academic year.

Please see information about membership in P.E.O. on the next page.

Membership in P.E.O.

P.E.O. was founded nearly 150 years ago as a college society. Fellowship and philanthropic service are of great importance to its members. Since membership in P.E.O. is by invitation, it offers potential members the opportunity to learn about the significance of these key attributes of the organization. P.E.O. members refer to each other as sisters, emphasizing the importance placed upon fellowship throughout the organization. Members of P.E.O. affirm their belief in God and work together for the general improvement of themselves and society.

Before receiving an invitation to join, a woman is sponsored by three members in a chapter. The sponsorship and invitation process includes getting to know the prospective member well and explaining P.E.O.'s purposes that come with personal commitment and responsibilities. If a woman is invited to join a chapter, she may then make her decision based on what she has learned about the local chapter and the international scope of P.E.O. When a prospective member accepts the invitation to join, a written acceptance must include an affirmation of her belief in God.

We do not discriminate against any woman based on age, ethnicity, religion or education.

Our Sisterhood is based on friendship and mutual respect. P.E.O. is not political nor is it a political action group. Individually, each member may work for causes of her choice outside of P.E.O. As members, we respect one another's political and religious views and activities. We meet to support each other, for fellowship and for the common and uniting purpose of assisting women to reach their educational goals.

P.E.O. is a source of encouragement and support for women, both for members in chapter life and for women who benefit from philanthropic assistance as they strive for educational advancement.

P.E.O. Executive Office
Phone: 515-255-3153 Fax: 515-255-3820 peointernational.org

12/16



P.E.O. A Philanthropic Educational Organization



*Women Helping Women
Reach for the Stars*

Norm Ferber
5726 NE Big Creek Road
Newport, Oregon 97365

No Transferability for commercial and commercially adjacent zoned property is a Non Starter
12-1-18

This is yet another attempt to avoid costly litigation as regards the proposed Vacation Rentals ordinance. I wish that I had not been placed in this situation. I have tried to avoid it and yet the outcome effects my future so dramatically that I am being forced both by my obsessive personality and the facts going forward.

I was a reluctant participant in the ad hoc committee and was asked several times before acquiescing. I finally agreed in part to represent the point of view of property owners who had opted for this means of income. I also agreed (although I did not consider my future at risk) to protect my property values and my considerable investment.

I honestly thought that although the entire process was very contentious that ultimately reason would prevail and I personally would not be at risk. That assumption proved to be incorrect.

At this time I am no longer speaking for Vacation Rental owners in Newport. I am speaking as a business owner , who has developed property in Newport, has received all the legal documentation to operate that business, has successfully operated that business for 23 years , has a letter from the city that cites that I indeed operate and will be able to continue to operate and be able in the case of physical catastrophe replace the physical realities of that business so that I may continue to operate that business. In that letter a city representative uses the term Hotel and Vacation Rental interchangeably several times in reference to my specific three homes located at 29 SW Coast St. Reference letter dated July 26, 2002 Re: Land use file #9-cup-97. Signed by Victor Mettle code administrator / Planner .

But now as of the latest decisions by the planning commission I will no longer be able to sell that business as a business. My investment will be reduced to the value of the underlying real property. I will no longer be able to factor in the 23 years of loyal customers that I have built up over that period. That same right is granted to any other business in this community and I would venture to say any where in this country.

To my future buyer (if there is one) I will only be able to guarantee that they will be able to operate my three homes as monthly rentals.

In real terms that represents a loss in today's property and business values of a million dollars of resale . I arrive at this figure this way. I have three four bedroom homes in a prime and coveted location. Each will produce when maximized a gross income of 60 thousand dollars in today's dollars . That is 180 thousand dollars a year. (Currently I gross approximately 140,000 per year because I am in a unique position to close my rentals for 3-4 months a year.)

As a monthly rental I could reasonably expect a gross income of 2400 dollars a month per house . $2400 \text{ a month} \times 3 = 7200 \text{ per month} \times 12 = 86,400 \text{ a year}$. That is with 100% occupancy. (I ran monthly rentals for 12 years and that 100 % occupancy is pie in the sky reasoning) .

So just there the difference in income per year produced is 93,600 dollars. (oh and by the way the loss to the city in transient room tax just for my property alone is \$17,100 dollars per year. (just my properties)

So using a real estate multiplier to ascribe value I applied 10% or \$936,000 in value . Let's figure 8% as a multiplier that would still be \$ 748,800 dollar difference in value or what I stand to lose. I don't think that is unreasonable as a multiplier for added value for an established business.

What would be the difference to my buyer in ownership for a monthly rental as opposed to a vacation rental. The increased occupancy would mean a lot more wear and tear on the interior spaces. It would be un monitored constant use . (My homes as vacation rentals get professionally cleaned twice a week on average. I have my carpets cleaned once or twice a year. Remember I as a business owner I have a very high motivation to maintain and keep my homes as inviting as possible both inside and out .) On average I can inspect my homes about every three days and take care of problems immediately .

As a monthly rental owner I would have to rely on the word of my tenant to either be respectful of my properties or hopefully keep me informed. Even with the best tenant in the world the increased constant usage would also ultimately mean increased depreciation and cost for maintenance .

What would it additionally mean to me if I no longer had transferability ? I would be forced to run my homes as vacation rentals as long as I found it physically possible. When I planned my retirement (and I began that process 35 years ago) I built this business as a bank account. I maintained its value and time and good business practices added value over time. Just as interest in a bank account would over time. I have cash reserves that I am too

conservative to invest in the stock market but I always thought of my homes as accounts I would eventually liquidate and my wife and I would be able to live on. Yes ultimately the market would eventually decide the value of that account but I always considered that what I was doing was running a business. One I would be able to ultimately sell to another person. Now because of the very large discrepancy in final amounts of that account I will have to rely on the income annually produced. Don't forget the IRS is an active partner in the proceeds of my business sale so that the final net payment to me would be reduced by approximately 50%. So a gross resale in the neighborhood of 8 or 9 hundred thousand dollars as monthly rentals would be reduced by half so that it would prove to be insufficient to retire on.

The decisions that will be passed on to you by the planning commission have unfortunately become mired in emotion and personal vendetta . If adopted they will ultimately lead to litigation (I feel) through measure 49 litigation. I have hired an attorney , I really don't want to experience the expense or the emotional cost of that, but the city has left me no alternative.

Rod Croteau (minute 45:30) during the last work session on 11-26-18 referred to measure 49 as a scare tactic . But given my losses what choice is the city giving me?

Measure 49 FAQ

Can I file a Measure 49 claim?

You may file a measure 49 claim for a new land use regulation if it has reduced the fair market value of your property. You have five years from the date the regulation was enacted to file a claim. A claim must be filed with government agency that enacted the regulation.

Jim Hanselman (minute 41:22) Makes the justification for adopting B1 (no transferability) as a "Cut and dry rule , so you know when you buy this is the rule" . I started this business 23 years ago and every single owner who has legally created a vacation rental has done so prior to the enactment of this regulation. That alone without my letter from the city is justification which guarantees my non-conforming use for a Non-conforming use defense.

Jim Hanselman (minute 42:01) Makes the argument that someone could buy all three and sell off two and live in the last one free. Is that following the reduction in value when the price is reduced by the post non transferability or is some one willing to pay the inflated price based on the reduction of

income potential? Also it doesn't consider the considerable cost involved with separating the properties. They are currently built on a single lot and share common water and sewer line. The new owner might also have to construct fire resistant walls between the homes. Or they could establish a condo organization. Either way it is not cut and dry. It involves additional expense and a reduced sale price. Not to mention is it really Jim Hanselman's place to be telling me how to conduct my business? Is this the basis for a measure 49 law suit?

Jim Hanselman (minute 1:02) refers to absentee property owner as "They're not citizens, they're not residents, they don't spend their money here except a little at a time". He goes on to say "I played by the rules I did what was accepted here, which was long term rentals. I didn't tell Newport how to run their town when I wasn't a citizen"

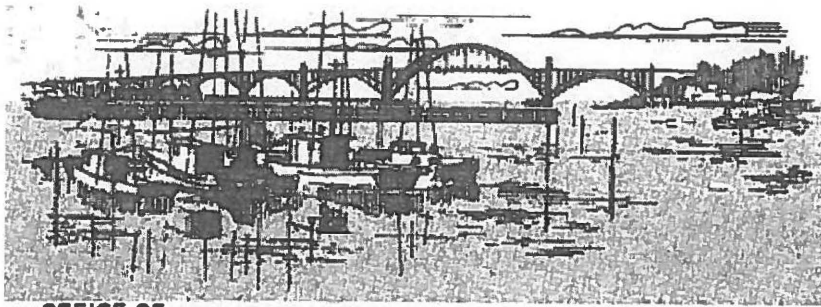
Yet by his own admission he purchased his home 15 years prior to actually living in it and while he lived in California. He came up in the summers. So he was a absentee land lord, who lived an entire state away from his property and spent very little time, money and oversight on his property. And now wants to deny that to any one else.

And by the way I'm no longer a citizen of Newport. I live about 100 feet outside of the property lines of Newport. So yes I get to spend a lot of money on maintenance and contribute a lot of money to city coffers in both transient and property taxes, employ housecleaners and sub contractors as well as local utility services spend all my time monitoring them and but don't actually have any voting rights regarding who is making decisions on my future.

I realize that the city has placed itself in a untenable situation. The ad hoc committee and Derek Tokos worked for a very long time. I am completely sympathetic to people who following 2012 discovered their R1 and R2 zoning was now open to business. The process was and continues to be contentious. But there is no place for blind emotional responses. During the 10 month process at the start of every meeting I was forced to announce my potential conflict of interest. I strongly feel that some of the Planning Commission members need to take a close look at their motivation and experiences and determine if they are capable of being fair and pragmatic. Compromise is when no one gets every thing they want.

B1, no transferability is a non starter for me. B3 is what the city recommends and it is the right thing to do.

Thank You Norm Ferber



OFFICE OF
COMMUNITY PLANNING & DEVELOPMENT

CITY OF NEWPORT

810 S.W. ALDER STREET

NEWPORT, OREGON, 97365

(541) 265-5331

TDD/VOICE 1-800-735-2900

July 26, 2002

Norm Ferber
1109 SW Fall Street
Newport, OR 97365

Re: Land Use File #9-CUP-97

Dear Mr. Ferber:

This letter is provided in response to your request for a zoning verification letter for the property located at 29 SW Coast Street here in Newport (Tax Lot 22200 of the Lincoln County Assessor's Tax Map 11-11-8BB) [the "Site"].

The Site is zoned R-4/"High Density Multi-Family Residential" and has been improved with the construction of three of five proposed residences (the "Project"). Residences are outright permitted uses, and vacation rentals (hotels) are conditionally permitted uses, in the R-4 zone.

A conditional use permit (No. 9-CUP-97) allowing operation of the Project as vacation rentals was approved on June 5, 1997. Therefore, you have the option of using the Project for long-term occupancy or residential use, or short-term occupancy or hotel use, which is defined as any occupancy for a continuous period of less than 30 days. Nonetheless, pursuant to Section 2-5-3.025/"Time Limit On a Conditional Use Permit" of the Newport Zoning Ordinance, a conditional use permit will expire if the use for which such approval was granted has ceased to exist or has been suspended for one year or more.

Consequently, in response to your specific question whether the three existing residences could be rebuilt in the event of a fire or some other disaster, the answer is: yes. Existing residences in the R-4/"High Density Multi-Family Residential" zone can be rebuilt from scratch as an outright permitted use in that zone, as long as building codes and other standard requirements of the City are met.

In addition, the City would allow the continuation of the use of the rebuilt residences as hotel

Norm Ferber
Newport, OR 97365
July 26, 2002
Page 2

as long as the use is re-established within one year. Nevertheless, if the use is not re-established within one year, a new conditional use permit may be required for the use of the residences as hotel.

There are no time limits for the use of the project as residences in the R4 zone.

If we can be of any further assistance, please feel free to contact this office at (541) 574-0628.

Sincerely,

A handwritten signature in black ink, appearing to read "Victor Mettle", with a stylized flourish at the end.

Victor Mettle
Code Administrator/Planner

Cc Dawn Pavitt - Litchfield & Carstens

Derrick Tokos

From: Derrick Tokos
Sent: Tuesday, December 04, 2018 9:03 AM
To: 'ldobitz@wavecable.com'
Subject: RE: Ordinance No. 2144 amending the City of Newport's Short-Term Rental regulations

Hi Leo,

To your question, the proposed changes will not supersede Southshore's CC&Rs that prohibit vacation rentals. Removing the potential for commercial uses at Southshore, as proposed by the developer, won't change the underlying zoning. It would remain an R-4 planned development. The property couldn't be rezoned to R-1/R-2, as condominiums are not permitted in those zones.

I'll provide a copy of your email, and this response, to the Planning Commission for its consideration.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
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d.tokos@newportoregon.gov

From: ldobitz@wavecable.com [mailto:ldobitz@wavecable.com]
Sent: Monday, December 03, 2018 9:49 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: Ordinance No. 2144 amending the City of Newport's Short-Term Rental regulations

Hello Derrick,

I have a concern regarding 14.25.020 Establishment of a Vacation Rental Overlay Zone. All four of the overlay alternatives presented include Southshore as a limited VRD area. We currently have a PUD, Declaration with CC&Rs, Environmental Agreement as well as Southshore Rules that do not allow short term rentals within the development. Can the City select one of the overlay options and supersede/invalidate all the current documents in place forbidding VRDs? The character of the community is one of the major factors owners invested in when buying property in Southshore.

Southshore is a limited access gated community. Currently, all of Southshore is zoned R4. After South Shores Development, LLC completes its efforts in making Southshore a mature community, it will no longer have any commercial potential. Will Southshore be rezoned to R1 and R2 as part of the development effort since it will be totally single family residences and condominiums?

Whether or not Southshore gets rezoned after the completion of the development should not preclude Southshore from being designated as "Prohibiting VRDs". Southshore residents went through a short term rental ordeal in 2010-2012 which, I am sure you are well aware of. Based on the decisions made in 2012

supporting the PUD, Declaration, CC&Rs, Environmental Agreement and Southshore Rules, I think removing Southshore from any potential Limited VRD location is appropriate.

Respectfully request that the your staff recommend to the Commission that any reference to Southshore as a Limited VRD be changed to "Prohibited VRD" on all four overlay alternatives presented.

Thank you for your time,

Leo Dobitz
916-801-2523
Southshore Homeowner

Derrick Tokos

From: KEITH TURNER <turnerk1@comcast.net>
Sent: Wednesday, December 05, 2018 8:47 AM
To: Derrick Tokos
Subject: Supplemental Rental Code Testimony

The first round of Newport's Vacation Rental Code was promoted as standardizing the safety of rental occupants. Things like tempered glass, egress windows, fire code occupancy, and GFI circuit breakers. And collecting rental tax. It looks like that hasn't addressed the nuisance issue of vacation rental occupants.

Any neighbor can be a nuisance but, as a rental operator, I agree that vacation rental tenants have a tendency to be less than considerate. I try to screen people the best I can, talking to them about limits of the property, and telling them that full time residents live there too. I still get them showing up with more people and cars than they said there'd be.

Even if I blacklist offenders, there are plenty more out there. This seems like an enforcement issue best directed at offending rental occupants. If a person is a nuisance, they should get the consequences. Newport has behavioral nuisance codes that address compatibility standards. These could be reviewed to ensure they address the kinds of nuisances occurring like parking and noise.

A concise list of these standards could be provided to vacation rental operators who are then obligated to make them part of their rental agreement. If occupants violate them and substantiated complaints are filed, they get a municipal ticket. If a rental operator has not provided the standards, then take enforcement against the operator. Enforcement is best directed at the offending party.

Yes, enforcement costs money. But, all rental occupants, even good ones, pay Newport tax. I pay full property tax but don't have children in Newport schools. Offending occupants would pay fines. This should go towards covering the societal costs of vacation rentals including enhanced nuisance enforcement.

Good luck.

Keith Turner

507 NW Alpine St. #308

Rights on County Commons Master Plan

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of the cost of that position. But without marketing, how do we bring in those hundreds of events? And with no major push at the beginning, and no emphasis on attract- ing new users, the commons will be dead on arrival. My sixth point concerns ongoing operational subsi- dies. All consultants since the beginning of the fairgrounds redevelopment process have stressed that at any level of operation, The commons will never pay for itself. The people of Lincoln County will be on the hook forever, no mat- ter the level of use. Seventh, in 1996, the county commissioners, Lincoln County Fair Board, Lincoln County School District, and Mayor of Newport reached the unani- mous agreement that "the fair- grounds should be moved to a different location." They signed Intergovernmental Agreement #B330 P2103. That decision should be upheld. Deception and misinfor- mation: news that the county fair property would revert to the original donor was proved wrong, yet continues to be circulated. The claim that two ballot measures to increase transient room taxes equates to a yes vote for go- ing into millions of dollars of debt for a project guaran- teed to lose money forever is absurd, yet continues to be stated loud and often, a technique used to make lies believable. The county states the transient room tax money will go away if not used at the current fairgrounds site, but if the fair moves to any other site in Lincoln County, transient room tax money can go with it. The county repeatedly claims it did an exhaustive search for a more appropriate fair location but found none, but when asked for documentation of that search, Commissioner Hall wrote back that no system- atic site search had been undertaken since 2005, and she was unaware of any record of any site search documenta- tion prior to that.

As a member of the Master Plan Vision Committee represent- ing the people of Lincoln County, I oppose adoption of this fraught revised master plan. Residents are advocat- ing that this matter be placed on a ballot so that they can vote no. The fairgrounds prop- erty is needed for addressing true critical needs, such as a replacement high school or workforce housing, which will improve the lives of hundreds of families in this county.

Carla Perry is a member of the Master Plan Vision Committee representing the peo-

12/5/18

VIEWS ON THE NEWS — READER FEEDBACK

Each week, readers are being asked — via the News-Times Facebook page — to offer their input on an issue currently in the news. To join that conversation, log on at www.facebook.com/newportnewstimes.

The topic: Vacation Rental Dwellings (VRDs) are popular among many property owners who want to earn income off of their investment by renting it on a short-term basis. But VRDs seem to be a source of controversy in many areas of coastal Lincoln County. City governments continue to wrestle with how VRDs ought to be regulated, if at all, with the most recent debate occurring at a meeting of the Newport Planning Commission on Monday, Nov. 26, when the discussion included things like capping the number of VRDs, setting occupancy limits and better enforcement of existing laws and policies.

Questions: Do you think Vacation Rental Dwellings (VRDs) are a problem in the area where you live? If so, what types of issues have you experienced? Would you favor stricter controls over VRDs by city government, or do you think property owners ought to be able to use their investment as they see fit?

VRDs are a vital form of revenue and sales for the central coast. Love 'em or hate 'em, Lincoln County reaps many benefits. Vacationers bring in lots of cash, just ready to spend at our restaurants, shops and attractions. The homes that are rented through the VRD program are totally out of most working families budgets. Most of these homes are oceanfront or in prestigious areas. There needs to be one set of rules for anyone who decides to participate in the VRD program. No grandfathering or special compensation. Homeowners who live next door or nearby a vacation rental should not be able to harass or become a hard-nosed naysayer just because their neighbors decide to help pay off their mortgage using the VRD program. Having been a past customer of vacation rentals in Lincoln County and a past

employee of a rental company in this county, I see a need for these homes. Make fair rules and enforce them fairly.
— Elizabeth Buletson

*Excuse me, but if we live on a quiet, residential cul-de-sac and they rent to a group of six friends with six cars and advertise that you can bring your dog, guitar and whatever else, how about those of us living next door with toddlers and young children needing sleep? And we have no idea who you're renting to (sexual predators perhaps), changing clients all the time. Our pets don't understand what's happening, the children have to be closely supervised. We live east of 101 and there wasn't supposed to be any commercial businesses here in our subdivision. Actually, I am more concerned about the livelihood of our current coastal resorts, motels and hotels that need to keep their employees employed year-round, losing revenue to these unnecessary VRDs. We need to have property available for working folks. I definitely support no transfer of VRD licensing in any way, including time-share ownership.
— K Thomas Myers*

*Cap the amount the cities have, and upon sale, it loses its rental standing. A new owner can apply but has to wait in line for a license to become available.
— Richard Simmons*

*Affordable, full-time rentals in our area are hard to come by for working families. Vacation rentals may be a cash cow for property owners, but how many people are they displacing?
— Eric Sherman*

*To blame vacation rentals for the housing shortage is absurd as they make up 2-3 percent of the housing in our area.
— Kay Klose*

There are several in my neighborhood. I haven't had any issues with them. If a person has a house near the beach or with a view, they are not displacing working families. This is prime real estate that will rent or sell on the high end of what the market

will bear. What is needed is high-density housing, like apartments, that would have more affordable rents.
— Carol Schriener

*I prefer renting to low-in- come, hard working families. There is more to creating a good community than simply creating higher and higher priced housing.
— Devonee Trivett*

*How can we expect to have jobs without the vacationers?
— Dusk McNeely*

*How can you expect to serve those vacationers with- out steady employees? Busi- nesses get shut down from lack of employees. Employees that can't afford places to live even on a decent wage. It's a problem.
— Amanda Reeves*

*My family was recently dis- placed with very little warn- ing when our non-ocean- front, non-luxury rental was sold and turned into a vaca- tion rental. Thank goodness we were able to find another rental, but there was so little available and reasonably priced. I believe there needs to be a cap in each city. I un- derstand the industry is im- portant in our area, but real people live here and need housing, too.
— Amanda Fall*

*The community needs a lot more apartments for low-income families. I make \$18,000 a year and can't even get into an apartment. I've been on a list for three years. This is what is wrong with the coast. Can't get workers here because no one can afford to travel 75 miles to get to work. It's a sad, sad situation.
— Sharon Jensen*

We have had many prob- lems in our neighborhood due to VRDs, including dis- turbances, leaving trash, put- ting trash in other property owners' cans, thefts, driving recklessly and fast down the street, leaving fires burning down at beach access and on the beach and parking on streets causing a safety issue. When we have called the vaca- tion rental management companies about issues, they have been unresponsive, of- ten not returning calls for

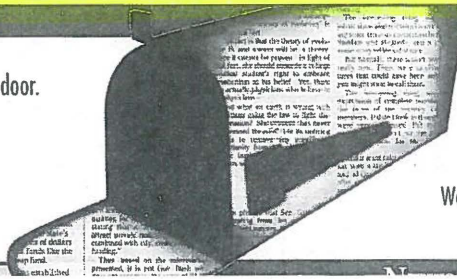
hours. For example, when we informed a management company that a house had 10 cars parked on the lawn, the response was that isn't allowed and they are over capacity, you should call the sheriff and have them re- moved. VRDs change the character of neighborhoods and need to be more respon- sibly managed and regulated.
— Cheryl Brown

I think a cap would make sense if the negative effects of VRD can be shown to drag down a sector of the market and/or needs of the commu- nity. But speaking as a recent newcomer and homeowner to the area (we bought a South Beach house this sum- mer), looking into the idea of a VRD vs. long-term lease, we went with the VRD (until we move to Newport area in 2020). While it would be bet- ter financially to rent to a full- time tenant, the few houses for sale that we looked at, and were occupied by a full-time tenant, were trashed. That really pulls down the home's value and dramatically makes a house harder to sell. With a management company, and immediate cleanings, you have a better piece of mind. That made the difference in our decision on how to pro- ceed, as we live far enough away from the area that fre- quent visits are out of the question. In the one month we worked on getting the house furnished and ready to be occupied, we dropped \$20K into the economy with flooring, furniture, mechani- cal upgrades, etc. Seems to me that housing needs could be better met by bigger real estate developers and invest- ors than by a single family buyer, who is looking to en- joy a home while submitting to the extra work needed for a VRD. It's certainly no cash cow for us, but it is a moder- ate tax advantage for a few years.

— Darryl Baird

Editor's note: due to space constraints, we don't guarantee all comments received via our Facebook page will be printed in this space, and some com- ments may be edited for length. However, all comments and re- plies on this topic can be viewed online at www.facebook.com/newportnewstimes.com

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We cover the news from north to south Lincoln County.

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Report Regarding the Status of Municipal Code Changes to Short-Term Rentals.

Hawker introduced the agenda item. Nebel reported that Council reserved December 10, 2018 for a possible public hearing and meeting on the code updates related to short-term rentals. He stated that the Planning Commission held its first public hearing on November 13, 2018 at which there was a significant amount of testimony, letters, and e-mails concerning options for modifying the existing code related to the regulation of short-term rentals. He added that on November 26, 2018, the Planning Commission discussed the policy alternatives and identified options that a majority of members were inclined to support in developing a recommendation for Council. He noted that notices would be sent outlining the Planning Commission's preferred alternatives, with a hearing scheduled for December 10, 2018 to obtain feedback on the alternatives that may be proposed to Council. He stated that the Planning Commission would then consider making a formal recommendation to Council. He added that with the proposed timing of the Planning Commission's efforts, it does not make sense for Council to hold a special meeting on December 10, 2018, since the Planning Commission would not have recommendations for Council to review by that date.

Nebel reported that the packet contains a report from Tokos providing additional details, including a link showing the Planning Commission's preferred alternatives.

Tokos presented an overview of the review process to date. He reported that if the Planning Commission is unable to make a recommendation for Council after the December 10 hearing, the matter would be continued to the next regular Planning Commission meeting on January 14, 2019. He summarized the potential changes to the vacation rental dwelling code.

Tokos reported that potential changes related to 1. Focus efforts on units that are not occupied by permanent residents; 2. Limit areas where vacation rental dwellings are allowed; 3. Establish license and density limits; 4. Improve enforcement; 5. Refine approval standards; 6. Require annual licensing; 7. Phase out non-compliant vacation rental dwellings.

Engler reported that she has not been able to locate the map that shows the caps and spacing in the C-2 overlay in Nye Beach. Tokos noted that this information should be on the city website. Engler suggested that it is more appropriate to use the same spacing as used in the R-3 and R-4 zones.

Norm Ferber reported that he submitted written testimony. He stated that he listened to the audio tapes of the meetings, and that his primary issue, at this time, is transferability. He noted that he developed vacation rental property, and received all the legal documentation to operate that property, which he has been doing for 23 years. He added that he has a letter from the city confirming his authorization to continue to operate as a vacation rental business. He stated that his plan was to sell his vacation rental business at some point, and if license transferability is prohibited, his investment will be reduced to the value of the underlying real property.

Tokos noted that the Planning Commission is likely to support a map alternative that would prohibit vacation rental dwellings unless they are in close proximity to Nye Beach and the Bayfront. They may also prohibit them in R-1 and R-2 zoned areas. He added that in permissible areas, the Commission may recommend that a cap be imposed. He noted that the majority of the Planning Commission does not believe that owners should be able to sell units as vacation rental dwellings. He stated that the staff recommendation is different.

Ferber stated that his property is surrounded on three sides by commercial property. He added that it is only by oversight of the Planning Commission that he remains zoned R-4 rather than C-2.

Nebel noted that Council would not be holding a hearing on this issue on December 10.

FOR IMMEDIATE RELEASE

Contact: Derrick Tokos

541.574.0626



**CITY OF NEWPORT PLANNING COMMISSION
SEEKS APPLICATIONS FOR CITIZENS ADVISORY COMMITTEE**

The Newport Planning Commission is seeking applications to fill two positions on the Planning Commission's Citizens Advisory Committee to allow for additional citizen input into their legislative work program, which involves review and updates to the Comprehensive Plan or its implementing ordinances (such as the zoning ordinance and related land use codes). The Citizens Advisory Committee may also assist the Commission with the implementation of the Newport Urban Renewal Plans.

To assist with their efforts in a comprehensive review and update of the Zoning Ordinance, the Planning Commission appointed a three-member Citizens Advisory Committee in 2004. While the project to comprehensively review the zoning ordinance is finished, work to improve the ordinance and comprehensive plan occurs on an ongoing basis. With this in mind, and in order to continue to gain this broader public perspective, the Planning Commission has continued the involvement of a Citizens Advisory Committee. The time commitment is two meetings per month, typically on the 2nd and 4th Mondays of each month, beginning at 6:00 P.M. and usually ending by 7:00 P.M.

Applications are due by 5:00 P.M. on December 31, 2018, to the Community Development Department in the Newport City Hall (169 SW Coast Highway). The Planning Commission will then consider the applications at its January 14th or 28th work session. An application form is available at the Community Development office from 8:00 a.m. to 5:00 P.M., Monday through Friday; or you can go on line at <http://newportoregon.gov>, click on 'City Government', scroll down and click on

'Committee/Commission Application'. Fill out that form and return it to the City by clicking on the 'submit' button at the bottom of the form. Questions may be answered by contacting the Community Development Department at 541.574.0626.

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