



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, December 12, 2022 - 6:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

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

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

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of November 28, 2022.

[Draft PC Work Session Minutes 11-28-2022](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of November 28, 2022.

[Draft PC Reg Session Minutes 11-28-2022](#)

3. CITIZENS/PUBLIC COMMENT

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

4. ACTION ITEMS

4.A File 2-CUP-22-A: Final Order and Findings of Fact Approving an Appeal of a Denial to Allow a Real Estate Office in the C-2 Zone District.

[Final Order and Findings](#)

[Attachments](#)

5. PUBLIC HEARINGS

6. NEW BUSINESS

7. UNFINISHED BUSINESS

7.A Planning Commission Work Program Update.

[PC Work Program - 12-09-22](#)

8. DIRECTOR COMMENTS

8.A Annie McGreenery Resignation.

[Annie McGreenery Resignation Email- 12-06-2022](#)

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
November 28, 2022
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Bob Berman (*by video*), Braulio Escobar, Jim Hanselman, Bill Branigan, Gary East, and John Updike.

PC Citizens Advisory Committee Members Present: Annie McGreenery, and Dustin Capri.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **New Business.**

A. **Discussion with Thompson Sanitary Regarding Trash Enclosure Standards for Multi-Family and Commercial Development Projects.** Tokos introduced Rob and Amy Thompson with Thompson Sanitary Services to the Commission. He noted they supported working with the planning department on a standardization of recommendations for new development or remodels. Rob acknowledged the 10 page example that they submitted to the Commission. Escobar asked what drove the discussion on policy changes. Rob reported that recently there was a code violation and nuisance at the Surf View Apartments for the use of their compactor. Thompsons was okay with compactors, but if the property didn't properly manage the ongoing maintenance, things would become unsanitary. Thompsons would be willing to pick up bulky items and police trash around enclosures, but this would be for an additional fees. Amy reported that since the apartments were opened Thompsons staff received constant calls to fix situations there. Trash would pile up because there wasn't anybody staffing the compactors, and tenants were confused because they thought Thompsons wasn't servicing the property.

Berman asked if any standards were in place currently. Tokos confirmed there weren't any standards for trash enclosures. Berman asked if they implemented standards would it apply to the Surf View apartments. Tokos confirmed they wouldn't because it was a completed development. He explained they couldn't avoid all issues moving forward. Some of the problems at Surf View were operational and couldn't be resolved by standards. Tokos explained they could put standards in place to ensure there were more trash enclosures required at the beginning of development.

Hanselman asked if the franchise agreement with Thompsons required them to service the apartment complex, and if Thompsons had the option to say they no longer wanted to service a property. Tokos pointed out that there were problems with other multifamily and commercial properties in Newport. Surf View was contractually obligated to have trash services because they were an affordable housing project. The franchise agreement listed that Thompsons had the ability to require customers to make changes or they wouldn't provide services to them. Tokos explained they didn't want to go down that road but could if necessary. This discussion was about if there were standards they could apply for

new developments. What happened after developments were completed was a different nuisance. Tokos noted what they were looking at was the standards to add to the code. Patrick asked if there were other things Thompsons was having problems with. Rob Thompson explained the franchise provided Thompsons rates and service levels that have been approved and reviewed by the City Council on an annual basis. This was the same arrangement with the County. They weren't allowed to provide preferential rates or services outside of those confines. Rob explained the last thing they wanted to do was to not provide service in order to get compliance. It was more beneficial to have standardization on the front side. Rob reported they had other challenges to providing services such as substandard streets and lack of landscaping maintenance. Patrick pointed out that apartments could do trash service more than once a week, and wanted to make sure they weren't setting up standards that could be taken care of on a timed basis instead. Rob reported that they could service commercial accounts five or six times a week. If the container was locked in an enclosure they charged extra for that. Thompsons tried not to have a subsidy where there wasn't a fee for extra services. When they subsidized they embedded it in the rate for all to pay.

Amy Thompson reported the plan guide they provided gave people an idea of what enclosures they would need and the kind of size requirements that would mean. Capri noted that the building and planning departments unofficially suggest developers reach out to utilities to get the cart sizes and talk about the typography of the lots and how they could affect trash service pickup. He thought the typography piece should be key and thought the city could look at this on a case by case basis. Tokos agreed that they needed to be thinking of terrain constraints. A number of the sample codes they had referenced were from areas that were flat which made it easy for them to be able to put in the access standards. Tokos thought they should keep in mind this was for multifamily and commercial, not residential. He reminded when putting in requirements they needed to have clear and objective standards. Redmond quantified this in terms of the number of yards per unit, and Seattle did this on a dwelling range. Newport could do something that was straightforward and achievable such as the height of an enclosure, and its proximity to a building. They could even take a look at under what circumstances a compactor made sense. Rob Thompson stated he supported this fully. Tokos thought that they needed to be cautious about access because of Newport's terrain which could create major issues for projects because of parcel size and slopes.

Branigan thought they could add language that automated compactors were not acceptable. Tokos noted this would be a discussion with Thompsons because compactors were valuable option for people. Rob Thompson explained that compactors needed to be loaded and there had to be someone who would maintain them. Hanselman thought it would be a good contingency to say if they wanted a compactor they are required to have an everyday staff member maintain it.

Escobar asked if there had been any dialogue between the Surf View management and Thompson. Amy Thompson reported there had been. They tried to do recycling education with them, but it was almost impossible for them to make sure everyone was educated because there was so much turnover at the apartments. She also noted that the access to the compactor was a far distance for the tenants to walk to. Rob Thompson gave an example of another apartment complex in Newport that had multiple waste receptacles that managed the waste really well. He reiterated that they were willing to sit down with the City and find something that worked for them.

Berman thought the standards would be pretty easy to come up with. Once the occupancy was granted, the monitoring and enforcement would begin. Berman wanted something in the code that would do this. Tokos explained this would go into the nuisance code. When talking about standards, they needed to be clear about the standards for new development. Tokos thought it would be trickier to have standards for how managers managed on an ongoing basis. Amy Thompson noted there was a Recycle

Modernization Act passed the previous year for Oregon which changed how Thompsons picked up recycling in the next five years. She thought that this Act would address some of the standards, and give them some guidelines for recycling.

McGreenery asked if access to the different locations could be improved in the standards. Rob Thompson explained that all of their trucks were side loading only. It would be straight forward to write some of this in the code to get what they needed. Capri pointed out the only thing in the code currently was the requirement to put a label on the trash enclosure. Tokos confirmed there was little in the way of parameters that were in the current code. He noted they also had to consider access for the user. They also needed to be sensitive to ADA requirements to make sure those with mobility limitations had access to trash and recycling.

Escobar thought the 25 page set of rules from Recology Western Oregon was a little overkill for Newport and suggested Thompson edit the document. Rob Thompson was receptive to this and noted the document was their first version. Hanselman thought Thompsons had a good handle on what the issues were. He suggested they provide their remedies for issues to the Commission to help them come up with standards. Rob thought they could do this. Tokos would work with Thompsons on this. He reminded this meeting was to make sure the Commission was comfortable with this being an issue they wanted to address. Then, with general consensus, they would work with Thompsons on a short list of standards they could incorporate into the code that would apply to multifamily and commercial.

Tokos reported there was one other area they needed to tackle that wasn't included in this. They needed to address what to do when people wanted to put waste receptacles off site. Nye Beach was an example of this. Rob Thompson explained the type of structure Nye Beach was proposing was large and close to the street. Thompsons liked what they were proposing, but they didn't have any language to encourage the builders to do it this way. Rob noted he didn't have any thoughts to add concerning people wanting to have their refuge placed away from businesses.

Branigan asked if Dahl Disposal Services was having the same issues. Rob Thompson stated he couldn't speak for them but he knew that they had the same trucks as Thompsons. He was happy to talk to them about what their issues were. Rob wanted to point out that often the developer was different than the management, which stuck Thompsons in the middle when there was issues. McGreenery asked if the public had any concerns brought to Thompsons concerning this. Amy Thompson reported that a few months previously this had happened. This didn't happen often for the majority of the city, but was more so with multifamily. Tokos pointed out that the common issues were about unsightly garbage and smell. He stated that what he heard was that there was general consensus to work on this with Thompsons and bring back a short set of standards to review. The Commission was in general agreement with this.

East asked how much of an issue it would be for Thompsons collections if they added a standard that the units had to be one or two enclosures per building. Rob Thompson explained they could provide a range of how many containers they should have per resident or building. There was a lot of flexibility to work with the customer, and code enforcement could work to keep things out of a nuisance issue. The more services they had the higher the cost. This would typically mean there would be less problems. East asked if the reason the complex chose to only having one compactor was due to the budget. Tokos thought it was. Capri asked if the size of the containers had been standardized. Rob confirmed they were. Capri asked if there was composting available for multifamily. Rob reported they didn't have it for commercial yet.

B. Overview of Updated Zoning Maps (Presentation). Tokos reviewed the web map with the Commission. He explained the plan was to make the map available on the City's website soon. Newport's GIS technician had recently left the City and they were having to contract with a third party vendor to provide assistance on this. Tokos reviewed the look of the map and asked the Commission if they saw any missing pieces. He pointed out that this was the same look as the map for the Transportation System Plan map, and the Camping Ordinance map that showed where the areas were that weren't permissible for camping. Tokos explained most people wanted to find out what the zoning for properties were. This was included in the map, as well as the hazards maps and floodplain areas. Tokos explained this would be teed up on the website but he wanted to see if the Commission was comfortable with the utility of them first. Berman asked if there was a link to map yet. Tokos said the link wasn't done. Berman thought the tsunami maps should be included.

Capri asked if the DOGAMI maps were included. Tokos reported the City didn't adopt all of the DOGAMI areas so they didn't display this. He noted they were going to try to set it up so people could print the maps with a blanket statement that the City didn't warrant anything displayed on the map. They also wanted to make sure people were talking to the City on certain things. This is why utilities wouldn't be included because the map wouldn't be down to a survey level.

Patrick thought there should be a layer to show what properties were and weren't in the city. Tokos explained the zoning map would show this. Updike asked if the viewer could turn on a parcel layer. Tokos reported they could and it would show the addressing as well. He pointed out that they added the five foot contours on the map as well. Berman commented how he liked the map. Tokos would let the Commission know when the map was available.

3. New Business.

A. NMC Chapter 14 Camping Related Land Use Amendments. Tokos reviewed the draft amendments to Chapter 14. He noted how they needed to define the definitions of camping and these changes would make this clear. Tokos explained that the zone districts changes were for camping for fees. Free of charge camping was under Chapter 9.50. Berman asked if all the RVs that hooked up to the Elks property was covered on this. Tokos explained that the property was authorized for camping and was considered a limited recreational RV park.

McGreenery asked if there was a permit process when someone brought in a RV to use for residential camping. Tokos explained there was added language that covered this. The City wasn't looking to do permits but to set parameters on how this would be legal. Berman asked if they added in the code that this didn't supersede CC&Rs. Tokos explained they could put this in the code, but if a CC&R said an owner couldn't do it, the CC&R would supersede the code and it would be privately enforceable.

Escobar asked how much time the code enforcement spent monitoring RVs to use on the streets. Tokos noted the staff spent a fair amount of time working with homeless individuals and those who couldn't find a parking space. He didn't have an exact figure but the camping ordinance has helped because it gave enforcement some clear guidance as to how to operate.

Tokos reviewed the changes to the manufacture dwelling text for properties outside of manufacture dwelling parks. Branigan asked if the language to allow RVs to park for no more than 12 months was negotiable. Tokos explained the 12 month time period would be up for debate by the Commission.

Tokos reviewed the temporary living quarters language for when someone was repairing or building a new home. He then covered the accessory use language to make it clear that owners could put up a

relative in a tent in the back yard. He reminded there had been interest in designating the number of tenants and limiting this to one tent. Updike pointed out they hadn't defined what a tent was and asked what the reason was for this. Tokos thought they could take a look at defining it and also determine a size parameter. He noted the City had a size parameter for sheds and gazebos. Tokos thought they could limit the tent size to no larger than accessory sheds. Patrick asked if a yurt was considered a tent. Tokos would look into this and thought it might be listed as an accessory dwelling unit because a yurt typically had cooking facilities, which would cause it to fall under an accessory dwelling. Updike asked if accessory dwellings had setbacks requirements. Tokos confirmed they did.

Updike asked if the 12 months would be consecutive. Tokos explained it was considered consecutive and was set up by statute. The timeframe could be whatever the Commission thought was reasonable. Branigan thought it should be six months. The Commission was in general agreement to have it be six months.

B. Planning Commission Work Program Update. No discussion was heard.

4. Adjourn. The meeting adjourned at 7:02 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
November 28, 2022

Planning Commissioners Present: Jim Patrick, Bob Berman (*by video*), Braulio Escobar, Jim Hanselman, Gary East, Bill Branigan, and John Updike.

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 7:03 p.m. On roll call, Commissioners Patrick, Branigan, East, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

Commissioners Branigan, Berman, Updike and Patrick noted minor changes to both sets of minutes.

A. **Approval of the Joint City Council and Planning Commission Work Session Meeting Minutes of November 14, 2022.**

MOTION was made by Commissioner Updike, seconded by Commissioner East to approve the Joint City Council and Planning Commission Work Session Meeting Minutes of November 14, 2022 with minor corrections. The motion carried unanimously in a voice vote.

A. **Approval of the Planning Commission Regular Session Meeting Minutes of November 14, 2022.**

MOTION was made by Commissioner Updike, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of November 14, 2022 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 3-CUP-22: Final Order and Findings of Fact Approving a Conditional Use Permit to do an Interior Remodel of a Historic Building (Ernest Bloch Home).**

MOTION was made by Commissioner East, seconded by Commissioner Branigan to approve File 3-CUP-22 Final Order and Findings of Fact. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 7:06 p.m. Chair Patrick opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. 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 2-CUP-22-A (Continuation).**

Tokos reviewed the staff memorandum. He reminded that a decision had not been made at the last meeting. There had been a three to three tie vote and the Commission chose to leave the hearing open so the seventh Commissioner could review the application and vote. Tokos reported that Commissioner Hanselman had reviewed the report in order to vote. He also acknowledged the new testimony submitted by owner, Ty Hildebrand and attorney, Zachary Dablow which had been shared with to the Commission prior to the hearing. Tokos requested the Commission be clear on the rationale they were using to make their decisions, and to be clear on the reason for their vote.

Tokos pointed out the question on if a condition could be added to require the applicant to hold ten events a year was enforceable and he didn't recommend it. He thought they should take the applicant at their word that they would be doing those because it would be difficult for enforcement to stay on top of it. Tokos explained that if an issue was ever raised the City could respond on a complaint basis.

Proponents: Zachary Dablow, attorney for the applicant addressed the Commission. He noted the previous approval for the other real estate office in Nye Beach had been approved using the concepts that a broader definition of tourist encompassed the idea of exploring and investing in real estate and served tourists and residents. Part of their argument was that before they got to the specifics of entertainment, Realty One had reported they had the same business plan idea to target tourists and provide education in the area as the previous location. Dablow explained that Realty One wanted to move to the ideal location that the business plan conceptualized, and this shouldn't be a punishment. The idea they were offering tourist direct and real estate services the same way Sea Shore Realty was, showed that they met the specific conditional use factors. Dablow noted that zone restrictions and conditional uses were useful for Commissioners to craft what they wanted to see in Newport, but thought the concern for saturation of the market would take care of itself. They urged the Commission to approve the conditional use permit.

Owner, Ty Hildebrand addressed the Commission. He explained they wanted to be given the same opportunity as Sea Shore Realty and Guild Mortgage who had already been given the green light in the Nye Beach area. He thought Realty One could add a lot for Nye Beach and tourists. Hildebrand added that their current location wasn't ideal because they were dealing with homeless issues there, and the location wasn't where they wanted to be.

Escobar asked if there were other locations the business had been located at in Newport. Hildebrand reported they had been at the current location for three years and it wasn't ideal. Escobar asked if they looked at any other locations in Newport. Hildebrand reported they hadn't, their original goal was to be located in Nye Beach. He reported that they had written a letter of intent for the location on the other corner of the street where they were at currently, but it wasn't accepted. Nye Beach was the area they wanted to be in. Escobar asked how many community type activities they had sponsored at their current location since May of 2019. Hildebrand reported there had been around five to six events. They had been doing the Toy for Tots and Pizza parties for their clients. Their current office wasn't great for these things because of the homeless population there. Hildebrand asked when Guild Mortgage started business in Nye Beach. Tokos reported they started at the same time the other real estate office went in. A staff level conditional use approval was done at that time and they were approved.

CeCe Kelly addressed the Commission. She stated she was a licensed realtor and noted that their profession was one that people stopped in to offices without an appointments. Kelly had people stop in the office for other reasons than for real estate who then became clients. She explained how Realty One's dream had been squashed by Covid and their events had to be delayed because of it.

Kelly appreciated the opportunity to continue the hearing. They really wanted their office to be in Nye Beach. Kelly reported that at their current location they had to have the doors locked because of certain incidences that were continuing to happen. Escobar asked if they had looked for other locations for the office. Kelly reminded that Hildebrand had already answered this, and she wasn't a part of the staff that looked for locations. Kelly stated that Hildebrand had his heart set at the location in Nye Beach but it wasn't available at the time they started in Newport.

Opponents: None were heard.

Chair Patrick closed the hearing at 7:34 p.m.

Escobar thought when the applicant brought up the safety of staff and problems with the homeless at their current location, it cast a new light on this. He thought Nye Beach should be tourist related. Escobar didn't think there was any compelling argument that the business would fail if it wasn't in a tourist area. He also noted that he hadn't heard testimony that there had been an effort to look anywhere else. Escobar noted that he didn't hear anything that would cause him to change his vote.

Branigan thought this was a tough choice. He noted that when Newport Municipal Code Chapter 14.03.040 was adopted it was clear that personal service oriented meant things like tax preparers, accountants, architects, and animal grooming. It was pretty clear that real estate was also included in this. Branigan understood why a real estate firm would want to be located there, and questioned if they needed to change the language to take real estate offices out of the code. Branigan affirmed his decision would be to deny.

Berman felt even more strongly that the Commission should override the staff denial because of the testimony that had been presented by the attorney. He said for fairness and consistency, they already approved the other real estate office that presented nothing for attracting tourists to that location. Berman thought the outreach to the public with the art gallery, and the other activities made it a good fit. He would vote to overturn the director's decision.

East agreed with Berman. He pointed out the current location had safety issues. East would vote overturn the director's decision.

Updike agreed and thought the information provided at the meeting had been compelling. He felt the difficulties at their current location was a non-starter. Updike thought there was a consistency issue with real estate in the same category. He thought in this instance the applicant was adding what they were looking for.

Patrick was on the fence on his decision and thought the lawyer's latest statement included some good points. He pointed out that he didn't know about the Guild Mortgage approval until this evening. Patrick thought choosing to look for another location wasn't the Commission's decision, neither was the business model. He was leaning toward approving this and thought they should strike real estate offices from the code. They needed to make a nexus between tourism and the service providers to have some sort of tie to it. Patrick thought this would be better than deciding the number of same category of services that should be in the area.

Hanselman reported he missed attending the first hearing meeting but had watched the video of it and reviewed the record. He referenced a comment a Commissioner gave at the first hearing date concerning the concept of new business strategies. This was a concept where they had combinations of businesses at one location so they could try their hands out with doing business in zones they might not have been permitted in previously. Hanselman was stuck on what happened

in 2011 when policy makers decided to draw specific definitions on what should exist and not exist in Nye Beach. Hanselman understood why the one real estate office had been grandfathered in. He didn't understand how another had been allowed in Nye Beach in 2018. The business in question currently was a realty office, which was prohibited in the original 2011 reorganization. Hanselman felt having realty offices in Nye Beach made this decision difficult. If more realty offices were wanted in Nye Beach they needed to change the rules and make them acceptable. Hanselman thought it was better to change the rules and come back to this it another time. He also questioned if the applicant had done their due diligence. The location for a business correlated to the zoning, and when someone purchased an office without seeing if their business plan fit directly with the zoning, it was their mistake. Hanselman explained that he was being held to the standard established in 2011 and was inclined to support the staff decision. Patrick agreed with both sides and reminded they did decide to allow a conditional use for someone else. Hanselman noted that that the previous conditional use was about a tv screen, not operating a real estate office in Nye Beach. Patrick asked if they went back and fixed things, would that change anybody's vote. Branigan thought that if they looked at this again, they would need to look at all personal services and strike out real estate.

Berman thought the issue of looking back at the personal services category would be good but that was not what they were looking at with this hearing. This request was to open a real state office in a area where they had previously approved the opening of a real estate office. Berman noted that the applicant made an effort in the business plan to conform to the tourist commercial and entertainment values. Patrick thought there was a good argument to go back and look at tourist commercial. He didn't want to see any empty spots in Nye Beach. Escobar noted the original intent in 2011 was that the application had to demonstrate that their business model was reliant upon being located in a tourist commercial area. He didn't think this application showed they had to be located in Nye Beach to be successful.

MOTION was made by Commissioner Berman, seconded by Commissioner Updike to override the staff decision and approve the Conditional Use Permit for File 2-CUP-22. Commissioners Patrick, East, Berman and Updike were an aye. Commissioners Branigan, Hanselman and Escobar were a nay. The motion carried in a voice vote.

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

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

8. **Director Comments.** Tokos referenced to the updated Planning Commission Work Program that was included in the work session meeting agenda. He noted the annexation hearing for the South Beach Church would be held on the January 9th meeting. The conditional use permit hearing for Toyota of Newport might be on the January 23rd meeting.

Tokos reported that he just had a meeting with the County, the DLCD and Boston Timber on the Urban Growth Boundary (UGB) land swap. The County wasn't satisfied with the land area that was being swapped out and how it was being handled. The swap had been retooled and was different than what the City Council had looked at. The County wanted it to come back to the City to review. Tokos told the County he would agree to this if they would go on the record before the Council ultimately approved anything that the Commission was comfortable with, if there were no new arguments that would come out, and if they would do it in a timely manner. Boston Timber was willing to continue to work on this. Tokos reported there was a new third party involved, Terry Litenmeier, who's property would be coming out of the UGB. He appeared to be on board with new concepts. This would come in as a new application and it would be scheduled once it was

submitted. Berman asked what the problems were that the Commission had concerning this. Tokos explained this had never been reviewed by to the Commission. The problem was the County said since it was coming out of the UGB they would force Litenmeier to change the zoning that they had applied, which was an RR-10 to a Commercial Forest or TCU timber conservation. This would have been highly restrictive on what Litenmeier could do. The accommodation was to change the 10 acre minimum size for timber conservation to a five acre minimum. This was because Litenmeier only wanted to do an equal land exchange which would give him the investment back expectation for developing the property. This was a prime example on why they needed to simplify the UGB amendment.

Escobar asked if there was a time sensitive reason to have the annexation hearing on January 9th. Tokos explained they were trying to get annexed in through a conditional use process, then have a building plan review, and then do the actual construction. They had to get off the property they were currently at in 2023. They wanted to move this quickly because they were afraid they wouldn't have a facility ready for occupancy by the time they had to vacate the current property. Tokos would talk to them to see if a two week delay would mean anything. He noted the annexation was not as big of an issue as the conditional use permit which would look at the proposed church use of the property consistent with the conditional use criteria. Hanselman asked if they had already purchased the property. Tokos confirmed they purchased it, and it was located near the Wilder subdivision on 40th Street. Escobar asked if this would be away from residences where noise would travel to. Tokos reported the church looked forward to not being that close to them and designing a building that would meet their needs.

9. Adjournment. Having no further business, the meeting adjourned at 8:04 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. 2-CUP-22-A, APPEAL OF THE DIRECTOR’S)
DECISION DENYING A CONDITIONAL USE PERMIT) FINAL
APPLICATION, AS SUBMITTED BY TY HILDEBRAND,) ORDER
K&B INVESTMENTS, LLC (ZACHARY DABLOW, P.C.,)
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A CONDITIONAL USE PERMIT, to allow a real estate office in a vacant 984-square foot commercial space within a multi-tenant, mixed use building at the northeast corner of NW 3rd and Coast Streets. The address for the commercial space is 316 NW Coast Street. It is identified as Tax Lot 80001 on Lincoln County Assessors Map No. 11-11-05-CC.

WHEREAS:

- 1.) The Planning Commission has duly accepted the appeal of the Community Development director’s Decision, finding it to be timely filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held public hearings on the request, with such hearings occurring on November 14, 2022 and November 28, 2022; and
- 3.) At the public hearings on said appeal, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearings, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the conditional use permit application

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

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

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

Accepted and approved this 12th day of December, 2022.

James Patrick, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 2-CUP-22-A

FINDINGS OF FACT

1. On August 4, 2022, Ty Hildebrand, a member of K&B Investments, LLC (property owner), applied for a conditional use permit, to allow a real estate office in a vacant 984-square foot commercial space within a multi-tenant, mixed use building at the northeast corner of NW 3rd and Coast Streets (Attachment "A-1"). The main floor of the building is dedicated to retail/commercial use, with four condominium units situated on the second floor of the structure.
2. The address for the commercial space is 316 NW Coast Street. The previous occupant at this location was SJ Custom Jewelers. The space is identified as Tax Lot 80001 on Lincoln County Assessors Map No. 11-11-05-CC. The balance of the first floor commercial space, under separate ownership and use, is identified as Tax Lot 80004, and the adjacent parking lot to the east, which is shared by the unit owners, is identified as Tax Lots Lot 80000 and 80007.
3. Surrounding development is a mix of tourist commercial and residential uses. A Property Report from the Lincoln County Assessor's Office notes that this building was constructed in 1999 (Attachment "A-2"). No changes are proposed to the building facade.
4. The subject property is located within a C-2/"Tourist-Commercial" zone district. Personal-service oriented retail sales and service uses are identified as conditional uses in this zone (NMC Section 14.03.070(2)(c)). Real estate offices are identified as a type of personal-service oriented use and are; therefore, subject to conditional use review (NMC Section 14.03.060(C)(2)).
5. NMC Section 14.34.030 allows for a conditional use permit to be processed and authorized using a Type II (staff level) decision-making procedure under the following circumstances:
 - A. The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
 - B. Involves a piece(s) of property that is less than one (1) acre in size.
6. In addition to being within a C-2/"Tourist-Commercial" zone district, the property is inside the Historic Nye Beach Design Review District Zoning Overlay.
7. The applicant Ty Hildebrand with K&B Investments, LLC, has a mailing address of 3603 Burning Tree Drive South, Salem OR 97302. It is their local business, Realty One Group at the Beach, that would be moving to the subject location. Realty One Group at the Beach currently operates out of an office located at 826 SW Lee Street. Their website lists more than a dozen affiliated brokers that provide residential and commercial real estate services. The business has operated from its Lee Street location since May of 2019 (Oregon Secretary of State, registry number 1553448-99).

8. This application for a conditional use permit was deemed complete on September 8, 2022. The application consisted of a completed application form, a business plan, a written narrative (findings), photographs of the exterior space with superimposed proposed signage, and a proposed floor plan (Attachments “A-5” to “A-7” and “A-11”).
9. The applicant notes in their supplemental narrative that the first Realty One Group office opened in Salem in 2018 and the Realty One Group currently operates three offices in the Willamette Valley and two on the coast. The applicant further points out that they first wanted to locate in Nye Beach and wrote a letter of intent to one Nye Beach commercial property owner which was denied. They then opened the current office at 826 SW Lee Street (Attachments “A-5” and “A-11”).
10. The applicant writes in their supplemental narrative and business plan that they plan to display and promote local art; provide maps and listings of local events in the lobby, be open every day during peak tourist times of the year, and hold customer appreciation events (Attachment “A-11”).
11. Upon acceptance of the application, the Community Development Director notified property owners within 200 feet of the subject property and affected public/private agencies/utilities, consistent with NMC 14.52.060(C)(5). The applicant submitted a list of property owners within the area to be notified as part of the application request. Said notice was mailed on August 5, 2022 (Attachment “A-8”). The notice contained the criteria by which the conditional use permit is to be assessed. Affected parties were given until August 19, 2022 in which to make comment on the application.
12. Three comments were received in response to the August 5, 2022 public notice. They were provided by Wendy Engler, Charlotte Boxer, and Kris Beshire, all of whom expressed opposition to the application (Attachment “A-9”). This was namely due to the growing concentration of real estate offices in the area, and a concern that they are displacing retail services that attract tourists and others to Nye Beach. Ms. Engler specifically related her concerns to the approval criterion, noting in an August 19, 2022 email that the applicant did not adequately address how they would serve tourists, which “does not comply with the requirements of the underlying zone or overlay zone.” The applicant was made aware of these comments and submitted supplemental narrative to address the issue.
13. The criteria for the Conditional Use Permit pursuant to NMC Section 14.34.050 are:
 - A. The public facilities can adequately accommodate the proposed use.
 - B. The request complies with the requirements of the underlying zone or overlay zone.
 - C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.
 - D. A proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

14. On September 20, 2022, Community Development Department staff, after reviewing the application materials and public comment, issued a decision denying the application on the grounds that the applicant had not demonstrated that their business model is reliant upon being located within a tourist commercial area (Attachment "A-12"). The relevant approval standard is NMC 14.34.050(B), which requires that the application comply with any special requirements of the underlying zone or overlay zone. This includes the intent of the C-2 zone district, which is to "provide for tourist needs, as well as for the entertainment needs of permanent residents" (NMC 14.03.040). The staff decision concluded that this bar had not been met considering that the business is structured to provide general residential and commercial real estate brokerage services, a type of business that does not need to be located within the finite amount of land area the City has available for, and that is attractive to, tourist commercial activities. Such conclusion was supported by the fact that applicant's business has successfully operated out of an office at 826 SW Lee Street since May of 2019, an area zoned for general commercial use. The applicant's proposal to incorporate an art gallery in its office and to conduct community events were viewed as activities ancillary to the principal use.
15. On October 4, 2022, the applicant, through their attorney, Zachary Dablow, P.C., appealed the Community Development Department decision (Attachment "B-1"). The grounds for the appeal were set out in a letter from Mr. Dablow, dated October 4, 2022 (Attachment "B-2"). He asserts in the letter that the application satisfies the approval criteria, in that it is consistent with the intent of the C-2 zone district, which is to provide for tourist needs, as well as for the entertainment needs of permanent residents. He points to the component of the applicant's business plan that notes the office will act as a local art gallery, and that special events would be held for the entertainment of the permanent residents and tourist visitors. Mr. Dablow further argues that one of the core functions of a real estate office, to showcase and promote the purchase of available residential units by non-permanent residents, expands tourism by exposing potential buyers to investments that might attract them back to the community, growing the number of visitors that might frequent Nye Beach.
16. Following receipt of the appeal, the Community Development Department set November 14, 2022 as the date for a public hearing before the Newport Planning Commission to consider the applicant's appeal. Notice was provided to the same list of individuals and organizations that received notice of the initial application and the applicant's representative (Attachment "B-3").
17. Two written comments were received in response to the notice. Gary Mines submitted a letter, dated October 29, 2022, in support of the conditional use permit application (Attachment "B-4"). He asked that the Commission be flexible, noting the challenges brick and mortar retailers face in competing with Amazon and that it makes it difficult to fill vacant tenant space. Written testimony was also received from Lucinda Chapman, a real estate broker at an office located in Nye Beach (Attachment "B-8"). Ms. Chapman expressed her opposition to the application indicating that, if approved, the area would be over saturated with real estate services.
18. For the public hearing, staff prepared a memo summarizing its decision, issues raised in public comment, and the nature of the appeal (Attachment "B-5"). The staff memo further noted that there are two other real estate offices in the tourist commercial zoned portion of Nye Beach. Oregon Coast Properties, at 415 NW Coast Street was established before the ordinance was restructured in 2011 and is grandfathered. The other is Seashore Homes Realty at 305 NW

Coast Street, which was permitted in 2018 with Conditional Use Permit #6-CUP-18 (Attachment “B-6”). The memo noted that in that decision the Community Development Department approved the conditional use permit, finding that the applicant’s business plan focused on the sale of homes to tourists, catering to pedestrians as a way to draw potential clients. Seashore Realty is a boutique real estate brokerage with a single broker who previously worked from his residence. Realty One Group at the Beach has more than a dozen affiliated brokers that, per their website, provide a range of residential and commercial real estate brokerage services. They also have a business office which, as noted, is located outside of a tourist-oriented area. The memo noted that these are distinguishing factors between the two Community Development Department decisions.

19. Zachary Dablow, P.C. submitted analysis and written testimony in support of the conditional use application on Monday, November 14, 2022 (Attachment “B-7”). In that testimony, Mr. Dablow further articulated reasons why the conditional use application should be approved. Included with the testimony, are examples of events held at all Realty One locations that regularly make up part of Realty One’s business plan. He notes that the events are entertainment, both for residents and for tourists. Mr. Dablow further points out that the applicant’s business plan not only shows that real estate services at the subject location are geared for tourism (the bar for Seashore Realty) but that they also have a meaningful entertainment component for residents and tourists consistent with the goals of the zone district. He also argues that the size of his client’s business is not relevant to the Commission’s evaluation of whether or not the application should be approved.

20. On November 14, 2022, the Planning Commission conducted a public hearing to consider the appeal. Jim Patrick, Commission Chair, and Commissioners Bob Berman, John Updike, Braulio Escobar, Bill Branigan and Gary East were present. The seventh member, Commissioner Jim Hanselman, was excused. Chair Patrick read a prepared script at the beginning of the hearing and the members present were asked to declare any conflicts of interest, ex parte contacts, bias or site visits. Two Commission members reported site visits. Nobody objected to members of the Commission hearing the matter. Staff then reviewed the report summarizing the questions before the Commission. This was followed by testimony from Mr. Dablow, on behalf of the applicant, who covered the points outlined in his letters and argued that he didn’t see a distinction between the Seashore Realty approval and his client’s request. The applicant, Ty Hildebrand also provided testimony, and both fielded questions from the Commission. Proponents were then given an opportunity to testify. Carolyn Hagerman, owner of the balance of the commercial space in the building, offered her support for the application. She explained how there is ample parking along the street and in the lot and that she looks forward to participating in fundraising event with Mr. Hildebrand. Ms. Hagerman also indicated that Seashore Realty isn’t open all of the time. Opponents were given an opportunity to testify. Roland Woodcock testified, not to object to the application, but to clarify that his business, Seashore Realty, is regularly open and that foot traffic has diminished, with much of the activity transitioning to online options. Mr. Dablow provided final rebuttal argument, indicating that the Commission was tasked to achieve broad based goals, not pick winners and losers in the market, that his client’s application was comparable to the conditional use permit that staff granted to Seashore Realty, and that there was sufficient evidence in the record to show his client’s application has satisfied the goals related to granting the conditional use application.

21. At the conclusion of the rebuttal testimony, the Planning Commission closed the hearing and entered deliberations. Commissioners East, Updike, and Berman expressed support for approving the conditional use permit, on the basis that the event offerings and use of the site as an art gallery is sufficient to satisfy entertainment needs of tourists and residents consistent with the intent of the C-2 zone district. Further, they agreed with the applicant's argument that there was little distinction between the subject application and the Seashore Realty approval, and that the Seashore decision set a precedent that out of fairness compelled approval of this application as well. Commissioners Escobar, Branigan, and Chair Patrick indicated that they didn't see sufficient evidence to overturn the staff decision. They were sympathetic to concerns raised by those that opposed the application given the limited amount of tourist retail available in Nye Beach. They did not see the events and gallery as being a meaningful component of the business and felt that the applicant could successfully operate out of any of a number of commercial office space in town, particularly considering that real estate traffic today is largely online (as opposed to foot traffic). A motion was made by Commissioner Berman to approve the conditional use permit, and that motion was seconded by Commissioner Updike. The motion failed on a tied vote of three ayes and three nays.
22. Staff pointed out that the Commission could continue the hearing to November 28, 2022 to give Commissioner Hanselman an opportunity to review the materials and break the tie vote. The applicant's attorney, Mr. Dablow, supported the continuance. A motion was made by Commissioner Branigan to continue the hearing to the November 28, 2022 regular meeting. The motion was seconded by Commissioner Updike, and the vote in favor of the motion was unanimous (Attachment "B-9").
23. On November 28, 2022, Chair Patrick opened the continued public hearing, and asked Commission members to declare any conflicts of interest, ex parte contacts, bias or site visits. None were heard, and nobody objected to members of the Commission hearing the matter. The Commission then accepted additional written testimony from Ty Hildebrand (Attachment "B-11") and his attorney Zachary Dablow, P.C. (Attachment "B-12") further articulating and summarizing points previously raised, and emphasizing that the question before the Commission is not whether there are too many real estate offices in the area, but rather has this application satisfied the criteria. Staff then presented the staff report, asking the Commission members to be clear about their rationale as to how the application does, or does not, satisfy the conditional use approval criteria. Testimony was then provided by Mr. Dablow and Ty Hildebrand in favor of the application. Their testimony substantially adhered to their written comments. The only other individual to testify was CeCe Kelly, a broker with Realty One at the Beach. Ms. Kelly testified that there were safety issues at their current location that limited its utility and that they very much wanted to move to Nye Beach. As there was no one in opposition present, the applicant waived their right to rebuttal and the hearing was closed.
24. Commissioners East, Updike, and Berman reaffirmed their support for approving the conditional use permit, on the basis that the event offerings and use of the facility as an art gallery is sufficient to satisfy entertainment needs of tourists and residents consistent with the intent of the C-2 zone district. They further agreed with the applicant's argument that there was little distinction between the subject application and the Seashore Realty approval, and that the Seashore decision set a precedent that out of fairness compelled approval of this application as well. Commissioners Escobar, Branigan, and Hanselman indicated that they

didn't see sufficient evidence to overturn the staff decision. They were sympathetic to concerns raised by those opposed to the application given the limited amount of tourist retail available in Nye Beach and the value of having those properties available to retail/entertainment uses that attract tourists and residents to the area. They did not see the events and gallery as being as meaningful a component of the business and felt that the applicant could successfully operate out of any of a number of commercial office space in town. Commissioner Hanselman further noted that the applicant should have done their due diligence to confirm that the use was permissible before purchasing the office space. Chair Patrick weighed in, indicating that upon further reflection he was inclined to approve the application, agreeing with the points raised by Commissioners Berman, East, and Updike. A motion was made by Commissioner Berman, and seconded by Commissioner Updike, to approve the conditional use permit. Commissioners Patrick, East, Berman, and Updike voted in favor of the motion, and Commissioners Branigan, Hanselman, and Escobar voted against it. The motion carried by voice vote.

CONCLUSIONS

1. NMC Section 14.34.030/ "Approval Authority," states that a request qualifies as a Type II decision if a proposed use generates less than 50 additional trips per day and the subject property is less than an acre. The space was originally designed for specialty retail use, an Institute of Traffic Engineers trip generation category that encompasses sales and personal service retail uses (Ref: ITE Category 814). The leasable area is not being expanded; therefore, no additional vehicle trips per day will be generated as a result of the new tenancy. According to the Assessor's Map, the subject property is well under an acre in size. Given the above, the request complies with the criteria to qualify for a Type II decision-making process by the Community Development Director. A Type II decision-making process is one where the initial decision is made by the Director with public notice and an opportunity to comment but without a hearing (NMC 14.52.020(B)).
2. With regards to the criteria for approval of a Conditional Use Permit listed under NMC 14.34.050, the following conclusions can be drawn:
 - A. *The public facilities can adequately accommodate the proposed use.*
 - i. Public facilities are defined in the Municipal Code as including sanitary sewer, water, streets and electricity. The applicant's findings indicate that the public facilities can adequately accommodate the proposed use.
 - ii. The applicant points out that the office is "very small" and that foot traffic of real estate professionals, clients and vendors will be no more than that of previous uses.
 - iii. Water service is available via an 8-inch line in NW Coast Street. Sewer service is provided via a 12-inch main in the same street. Electric service is available at the site.
 - iv. Northwest Coast Street is fully developed with sidewalks and marked crosswalks. This section of Coast Street is designed to slow vehicle speeds and promote pedestrian movement. Structured storm drainage infrastructure is in place to collect the runoff from the property and street, with the drainage ultimately being discharged into the ocean.

v. Based on the above, the Planning Commission finds that this criterion has been satisfied.

B. *The request complies with any special requirements of the underlying zone or overlay zone.*

i. The underlying zone for the property is C-2/"Tourist Commercial." Personal service-oriented businesses are a conditional use in this district.

ii. A personal service-oriented land use category was created when the commercial and industrial land use element of the zoning ordinance was restructured in 2011 (Ordinance No. 2022). This use category is characterized as including the following types of businesses:

“Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming.”

This category of uses was identified as conditional within the City’s C-2/"Tourist Commercial" zone because there is a finite amount of retail space in tourist oriented areas, and policy makers determined that such space needs to be reserved for complimentary uses. Many personal service-oriented uses do not need to be located in tourist areas, and can just as effectively locate in Newport’s other commercial or light industrial zones where there are additional lease or ownership opportunities. The conditional use process is the mechanism for reviewing personal service-oriented uses to ensure they complement the tourist oriented nature of the C-2 district.

iii. For reasons outlined in the above findings, the Commission concludes that the applicant’s business plan, which includes event offerings and use of the facility as a retail art gallery, complements the tourist oriented nature of the C-2 district, satisfying the entertainment needs of tourists and residents consistent with the intent of the district.

iv. Further, the Commission agrees with the applicant that the difference between their proposed business plan and that of Seashore Realty is not significant enough to warrant approval of one over the other, and that the Seashore decision set a precedent that out of fairness compels approval of this application as well.

v. Based on the above, the Planning Commission finds that this criterion has been satisfied.

C. *The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. For the purpose of this criterion, “adverse impact” is the potential adverse physical impact of a proposed conditional use including, but not limited to, traffic*

beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.

i. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Newport Municipal Code as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

ii. The proposed location of the applicant's real estate office is an existing storefront. The application includes a signage plan which meets City signage standards, and statements that the window dressings and decor would reflect the Nye Beach "vibe."

iii. The proposed business will not generate additional vehicle trips to the site any more than the previous occupants of the proposed location.

iv. The proposed business will be within an existing enclosed structure; it is highly unlikely that any nuisance concerns outlined above would be an issue.

v. Based on the above, the Planning Commission finds that this criterion has been satisfied.

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

i. No exterior or structural modifications are proposed as part of this application except for signage, which is reviewed by City staff through a separate ministerial permitting process.

ii. Based on the above, the Community Development (Planning) Director finds that this criterion has been satisfied.

OVERALL CONCLUSION

Based on the application materials and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Chapter 14.34 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit is approved with the imposition of the following conditions of approval:

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

ATTACHMENTS

Attachments listed below and referenced herein are included in the case record and are incorporated as part of the decision:

- Attachment "A-1" - Conditional Use Permit Application Form
- Attachment "A-2" - Lincoln County Assessor Property Record Card
- Attachment "A-3" - Statutory Warranty Deed for the Property
- Attachment "A-4" - Oregon Secretary of State Assumed Business Name Amendment
- Attachment "A-5" - Application Narrative
- Attachment "A-6" - Signage and Floor Plan
- Attachment "A-7" - Photos of the Property
- Attachment "A-8" - Public Notice of Application and Opportunity to Comment
- Attachment "A-9" - Comments from Wendy Engler, Charlotte Boxer, and Kris Beshire in Opposition to the Application
- Attachment "A-10" - Staff Request of Applicant for Supplemental Information
- Attachment "A-11" - Supplemental Narrative from the Applicant
- Attachment "A-12" - Final Order and Findings Denying the Conditional Use Application
- Attachment "A-13" - Notice of Decision with Appeal Information
- Attachment "B-1" - Appeal Application Form
- Attachment "B-2" - Grounds for Appeal from Applicant's Attorney
- Attachment "B-3" - Notice of Planning Commission Hearing to Consider Appeal
- Attachment "B-4" - Public Comment from Gary Mines in Support of the Application
- Attachment "B-5" - Staff Memo for Appeal Hearing w/o Attachments
- Attachment "B-6" - Final Order and Findings for 2018 Conditional Use Permit Approval of Seahorse Realty Application
- Attachment "B-7" - Supplemental Testimony from the Applicant's Attorney, with Attachments
- Attachment "B-8" - Public Comment from Lucinda Chapman in Opposition to the Application
- Attachment "B-9" - Minutes from the November 14, 2022 Planning Commission Hearing
- Attachment "B-10" - Staff Memo for the Continued Public Hearing
- Attachment "B-11" - Additional Testimony from Ty Hildebrand (Applicant)
- Attachment "B-12" - Letter from Applicant's Attorney Supplementing Previous Testimony



City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
Ty Hildebrand	Ty Hildebrand
Applicant Mailing Address:	Property Owner Mailing Address:
2668 Cascadia Industrial St S Salem OR Same	
Applicant Phone No.	Property Owner Phone No.
503-881-2313	503-881-2313
Applicant Email	Property Owner Email
ty@rogwv.com	ty@rogwv.com
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
David Adolf	
Authorized Representative Mailing Address:	
826 SW Lee St Newport OR 97365	
Authorized Representative Telephone No.	
509-981-8685	
Authorized Representative Email: oregoncoastdave@gmail.com	

Project Information

Property Location: <i>Street name if address # not assigned</i>	
316 NW Coast St Newport OR 97365	
Tax Assessor's Map No.: 11-1105C08000100	Tax Lot(s): 80001
Zone Designation: C-2	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation: Commercial	
Brief description of Land Use Request(s):	
<i>Examples:</i>	
<ol style="list-style-type: none"> 1. <i>Move north property line 5 feet south</i> 2. <i>Variance of 2 feet from the required 15-foot front yard setback</i> 	Real Estate Office
Existing Structures: if any	
Use will be within a existing mixed-use structure that covers the entire property.	
Topography and Vegetation:	

Application Type (please check all that apply)

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

FOR OFFICE USE ONLY

File No. Assigned: 2-CUP-22		
Date Received: 8/4/22	Fee Amount: 728 -	Date Accepted as Complete:
Received By: BY	Receipt No. 6137	Accepted By:

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



City of Newport Land Use Application

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

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

Applicant Signature(s)

8/1/22

Date

(Ty Hildebrand is a member of K+B Investments LLC)

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

Date

Authorized representative Signature(s) (if other than applicant)

8/4/22

Date

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

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

LINCOLNPROD PROPERTY RECORD CARD

Property ID: R513083

Map and Taxlot: 11-11-05-CC-80001-00

Tax Year: 2022

Run Date: 9/8/2022 1:57:40 PM

PROPERTY SITUS ADDRESS

316 NW COAST ST
Maintenance Area: 5-90

GENERAL PROPERTY INFORMATION

Prop Class: 201
NBH Code: N516
Prop Type Code: COM
Last Appr Date:
Appraiser:
Zoning:
Code Area: 104
Related Accts: P511362, P519941, P522080,
P530977

VALUE HISTORY

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
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OWNER NAME AND MAILING ADDRESS

K&B INVESTMENTS LLC
3603 BURNING TREE DR S
SALEM, OR 97302

Owner Comment:

ASSESSMENT INFORMATION

Land Non-LSU:		Prior MAV:	111,900	CPR:	
Land LSU:		Prior AV:	111,900	EX. MAV:	
Improvement:	285,270	AV +3%:	115,257	LSU:	
RMV Total:	285,270	Except RMV:		New M50 AV:	115,250

LEGAL DESCRIPTION

NYE BEACH PLAZA CONDO, LOT UNIT 1-A,
DOC202203434

Road Access:

SALES INFORMATION

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
03/28/2022	33			SALE	WD WARRANTY DEE	202203434
12/30/2020	27			SALE	SWD SPECIAL WAR	202100101
12/02/2005	32			SALE	WD WARRANTY DEE	200519427
04/27/2001	31			SALE	WD WARRANTY DEE	MF420-1222

Acres: 0 Sqft:
Effective Acres: 0

BUILDING PERMITS AND INSPECTIONS

Type	Appraiser	Issue Date	Date Checked	% Comp	Comment
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PARCEL COMMENTS

GenCom- JV#091 INPUT 1-18-00

EXEMPTIONS

Code	Exempt RMV
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Exceptions

Code	Year	Amount	Method
NII	2000	85660	7

MARKET LAND INFORMATION

Type	Table	Method	Acres	Base Value	Adjustment Code - %	NBHD %	Total Adj %	Final Value
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LAND SPECIAL USE

Code	SAV	Unt Pr	MSAV	Unt Pr	LSU
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RECORDING REQUESTED BY:

Western Title & Escrow

255 SW Coast Highway, Suite 100
Newport, OR 97365

AFTER RECORDING RETURN TO:

Order No.: WT0234970-JET
Ty J. Hildebrand
K & B Investments, LLC
3603 Burning Tree Dr. S
Salem, OR 97302


SEND TAX STATEMENTS TO:


K & B Investments, LLC
3603 Burning Tree Dr. S
Salem, OR 97302

APN: R513083
Map: 11-11-05-CC-80001

Lincoln County, Oregon	2022-03434
03/31/2022 11:34:02 AM	
DOC-WD	Cnt=1 Pgs=3 Stn=12
\$15.00 \$11.00 \$10.00 \$60.00 \$7.00	\$103.00

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.


Dana W. Jenkins, Lincoln County Clerk



CITY OF NEWPORT

SEP 07 2022

RECEIVED

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Carolyn Ackerman , Grantor, conveys and warrants to K & B Investments, LLC, an Oregon limited liability company, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Lincoln, State of Oregon:

Unit 1-A, NYE BEACH PLAZA CONDOMINIUMS, in the City of Newport, County of Lincoln and State of Oregon.

TOGETHER WITH the percentage of ownership and interest in the common elements as set forth in Declaration recorded August 6, 1999 in Book 387, Page 299, Lincoln County Records.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS THREE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$380,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: March 28, 2022

[Signature]
Carolyn Ackerman

State of OREGON
County of Lincoln

This instrument was acknowledged before me on March 28, 2022 by Carolyn Ackerman.

[Signature]
Notary Public - State of Oregon

My Commission Expires: Aug 26, 2024

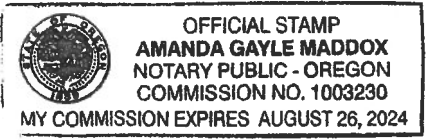


EXHIBIT "A"
Exceptions

Subject to:

1. The matters set forth in the document shown below which, among other things, contains or provides for: certain easements; liens and the subordination thereof; provisions relating to partition; restrictions on severability of component parts; and covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Entitled: Declaration of Unit Ownership
 Recording Date: August 6, 1999
 Recording No: Book 387, page 299
 Amendment(s)/Modification(s) of said covenants, conditions and restrictions

Recording Date: October 21, 1999
 Recording No: Book 391, page 1143
 Amendment(s)/Modification(s) of said covenants, conditions and restrictions

Recording Date: June 22, 2009
 Recording No: 2009-07346

2. **Liens and assessments, if any, by the The Association of Unit Owners of Nye Beach Plaza Condominiums.**

By-laws of Association of Unit Owners for Nye Beach Plaza Condominiums, including the terms and provisions thereof,

Recording Date: August 6, 1999
 Recording No.: Book 387, page 310
 Amendment(s)/Modification(s) of said by-laws,

Recording Date: October 21, 1999
 Recording No: Book 391, page 1146
 Amendment(s)/Modification(s) of said by-laws

Recording Date: September 18, 2007
 Recording No: 200713390
 Amendment(s)/Modification(s) of said by-laws

Recording Date: April 1, 2009
 Recording No: 2009-07346

3. Unrecorded Lease in favor of SJ Custom Jewelers & Stewart Charles Riddle, as disclosed by the Lincoln County tax roll. (Account No. P530977)
4. Existing leases and tenancies, if any.



Secretary of State - Corporation Division - 255 Capitol St. NE, Suite 151 - Salem, OR 97310-1327 - sos.oregon.gov/business - Phone: (503) 986-2200

Assumed Business Name - Amendment

Complete only the sections that you are updating. To review current information, please go to: sos

FILED: JUL 11, 2022 OREGON SECRETARY OF STATE



155344899-23239057

REALTY ONE GROUP- AT THE... AMDREG

REGISTRY NUMBER: 1553448-99

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public. We must release this information to all parties upon request and it will be posted on our website.

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1. CURRENT BUSINESS NAME: Realty ONE Group AT THE BEACH

2. NEW BUSINESS NAME: (If changed, \$50 fee required)

3. DESCRIPTION OF BUSINESS:

4. PRINCIPAL PLACE OF BUSINESS: (Street Address, City, State, Zip)

2668 CASCADIA INDUSTRIAL ST. S #150 97302

* 5. NAME OF AUTHORIZED REPRESENTATIVE: (One name only) CONTINUING or NEW

Ty Hildebrand

6. MAILING ADDRESS OF AUTHORIZED REPRESENTATIVE:

2668 CASCADIA Industrial St. S #150

7. REGISTRANTS/OWNERS: (List name and publicly available street address of new registrants)(Attach separate sheet if needed)

a. NEW REGISTRANTS/OWNERS: Street Address City State Zip

b. WITHDRAWING REGISTRANTS/OWNERS:

8. CURRENT REGISTRANTS/OWNERS ADDRESS CHANGE ONLY: (This section is only for registrant address changes)(Attach separate sheet if needed)

Registrant Name Street Address City State Zip

- 9. COUNTIES: Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, Yamhill

10. SIGNATURE(S): New Registrants must sign. If any Registrants are WITHDRAWING, withdrawing Registrants or Authorized Representative must sign. I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, obscure, alter, or otherwise misrepresent the identity of any person including officers, directors, employees, members, managers or agents. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

Signature: [Handwritten Signature]

Printed Name:

CONTACT NAME: (To resolve questions with this filing)

PHONE NUMBER: (Include area code)

FEES
If Changing Business Name \$50
No Fee For Other Changes
Processing Fees are nonrefundable. Please make check payable to "Corporation Division".
Free copies are available at sos.oregon.gov/business using the Business Name Search program.



City of Newport
169 SW Coast Hwy
Newport, OR 97365
Date 8/4/2022

RE: Conditional Use Application Submittal Requirements

Dear Recipient,

Questions:

- #6
- a. Our plan is to operate a real estate office out of the building. The office will serve our real estate professionals and their clients.
- #7
- a. The public facilities will adequately accommodate real estate professionals, clients and vendors.
 - b. The Real Estate office complies with current zoning.
 - c. The office will not have any adverse impact on the surrounding community. We have parking available behind the building. This is a very small real estate office that will not be full at any given time.
 - d. There will be no change to the exterior of the building. We will be updating the space to a professional office.
- #8
- a. We are wanting to open a real estate office. We currently have 5 offices, 2 on the coast and 3 in the valley. Our offices are very professional and we believe will add to the already great NYE beach community.

Sincerely,


Ty Hildebrand

Owner, Realty ONE Group At the Beach and Willamette Valley
ty@rogwv.com | 503-881-2313 | www.ROGWV.com | www.ROGATB.com

Realty ONE Group At the Beach
826 Lee SW St
Newport OR 97365

7/29/22, 11:14 AM

Realty One - Newport - Side Wall Sign PROOF - 7-1-2022.jpg



Salem Sign Co., Inc.
1835 FRONT ST. N.E.
SALEM, OR 97301
503-371-6362
CC# 045297

SPECIFICATIONS

MATERIAL:
Polymetal

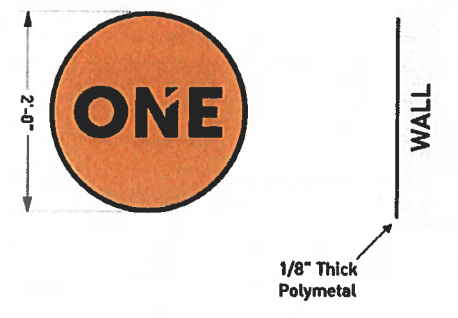
VINYL:
3M Gold Nugget
3M Matte Black

SCALE: 1" = 1'-0"

THIS DRAWING IS THE PROPERTY OF SALEM SIGN CO., INC.

Non-Illuminated Wall Display

SIDE VIEW



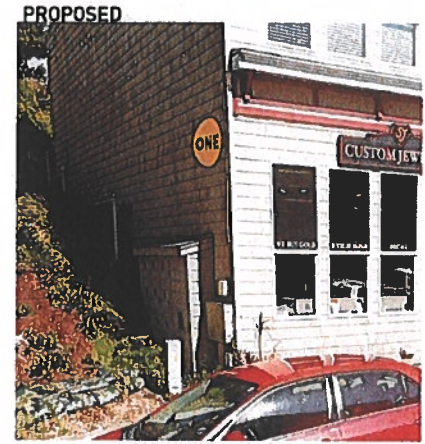
2'-0"

ONE

1/8" Thick Polymetal


WALL

PROPOSED



*Sign shown at approximate size & scale.

SK# 27857-22	JOB TITLE: Realty One at the Beach	LOCATION: Newport, OR	DATE: 7/1/2022	DRAWN BY: M.B.	SALES: Corey Spady	APPROVED BY:
--------------	------------------------------------	-----------------------	----------------	----------------	--------------------	--------------



Salem Sign Co., Inc.
1633 FRONT ST. N.E.
SALEM, OR 97301
503-371-6362
CDB # 65297

SPECIFICATIONS:

CABINET:
Custom
Fabricated
Aluminum;
painted black

LETTERS:
1/2" Thick
Push Thru
Acrylic; white

VINYL:
3M Gold Nugget
(230-141)

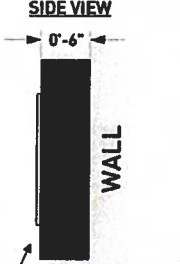
ILLUMINATION:
White LED

SCALE: 1" = 1'-0"

THIS DRAWING IS THE PROPERTY
OF SALEM SIGN CO., INC.

Illuminated Wall Display

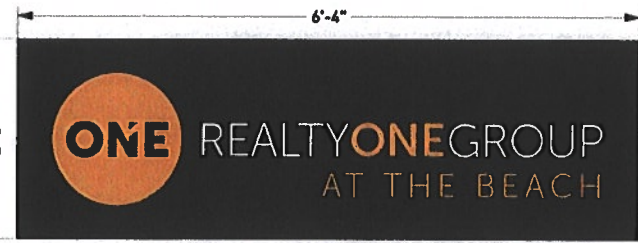
SIDE VIEW



0'-6"

2'-0"

WALL




6'-4"

2'-0"


ONE REALTYONEGROUP
AT THE BEACH

1/2" Thick Push Thru
Acrylic Letters/Logo



**VERIFY SIGN AREA
& ELECTRICAL**

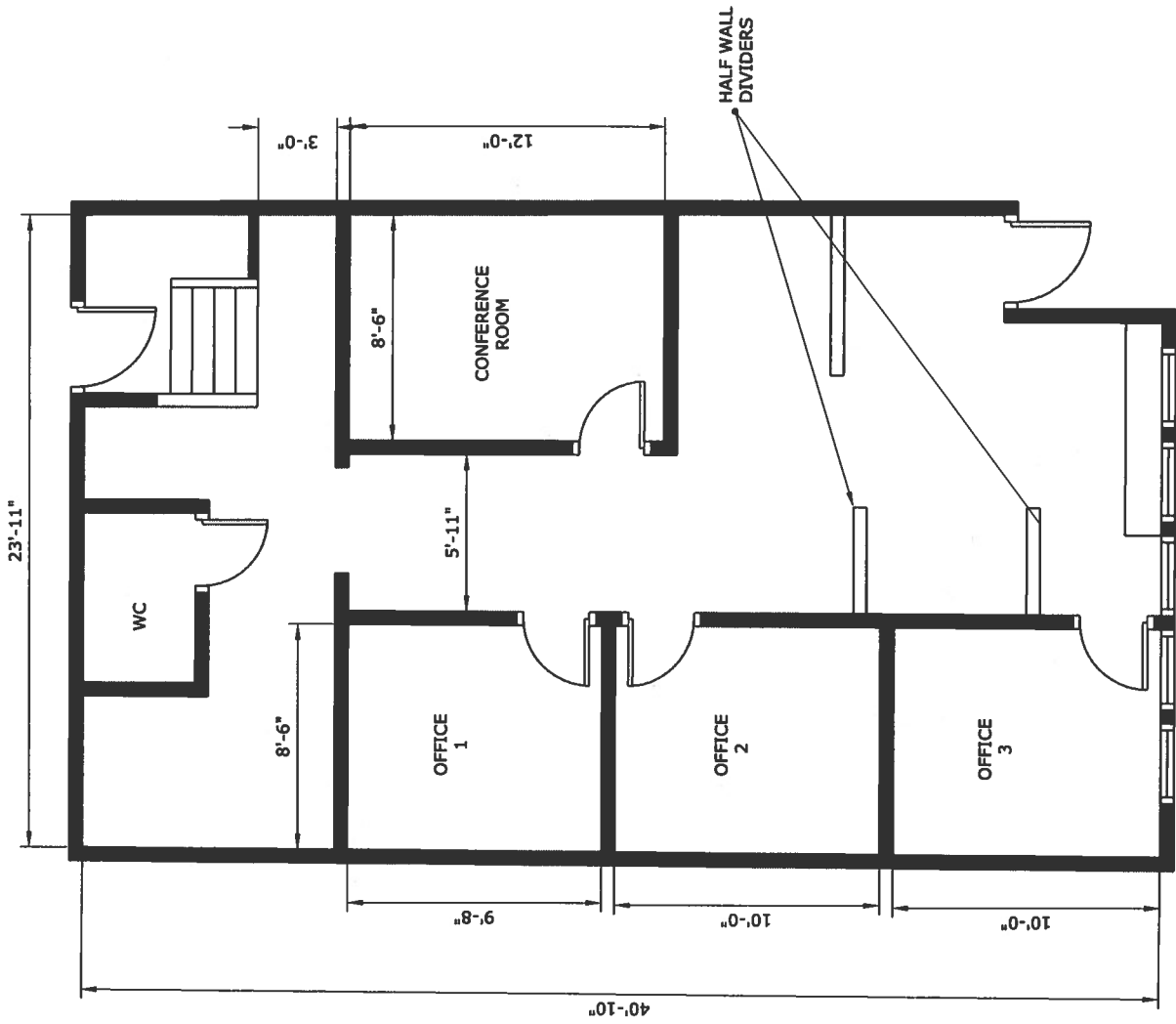
PROPOSED

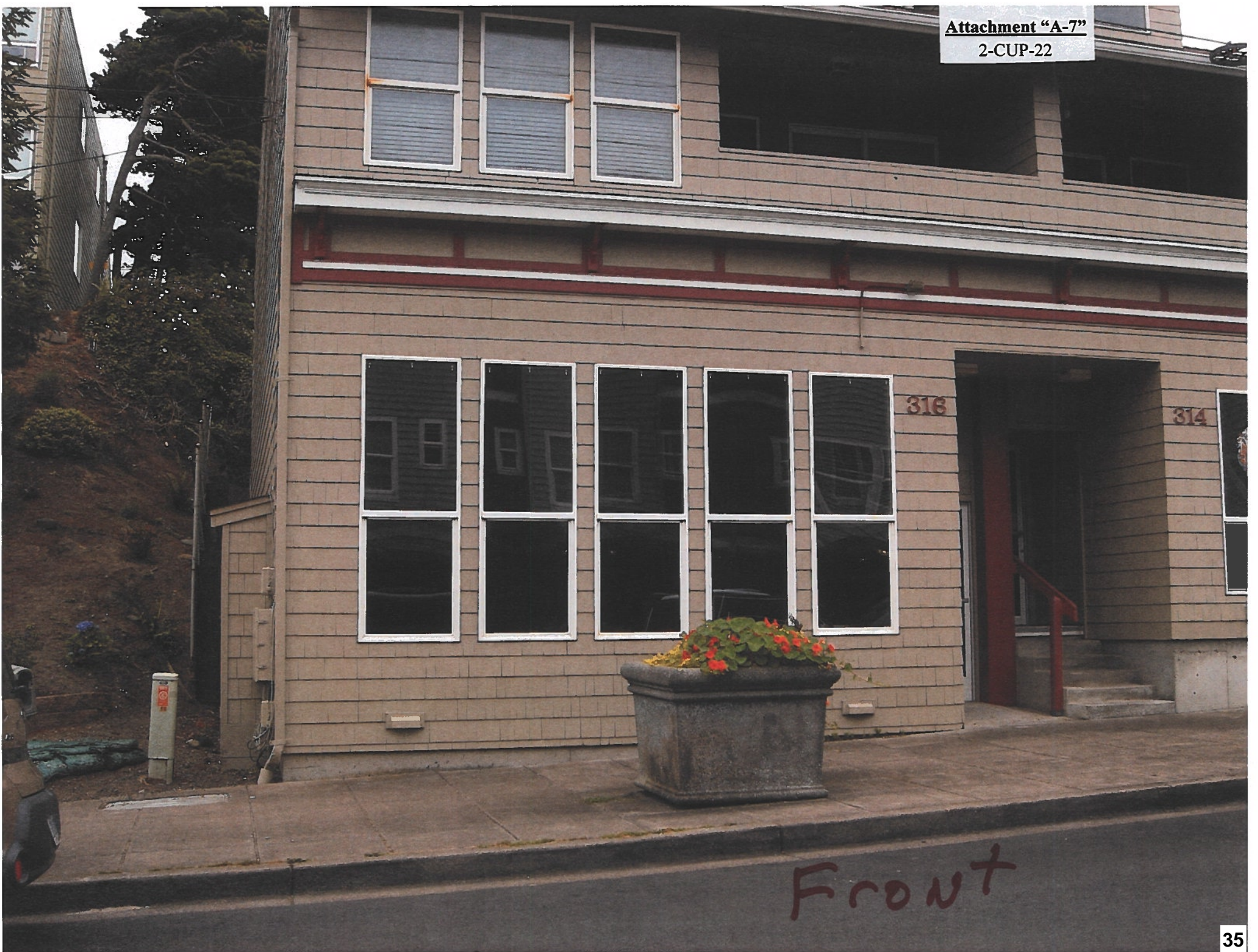


*Sign shown at approximate size & scale.

SK# 27854-22 JOB TITLE: Realty One at the Beach LOCATION: Newport, OR DATE: 7/1/2022 DRAWN BY: M.B. SALES: Corey Spady APPROVED BY:

HILDEBRAND-NYE BEACH CONCEPT FLOOR LAYOUT.





Front



Side



REAR

**CITY OF NEWPORT
PUBLIC NOTICE¹**

NOTICE IS HEREBY GIVEN that an application for a Conditional Use Permit has been filed with the Community Development (Planning) Department.

File No. 2-CUP-22

Applicant & Property Owner: David Adolf, representative (Ty Hildebrand, K & B Investments, LLC, property owner)

Request: Approval of a request per Section 14.03.070/"Commercial and Industrial Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone for which personal service oriented retail sales and services are a conditional use.

Location: 316 NW Coast St, Newport, OR 97365 (Lincoln County Assessor's Map 11-11-05-CC; Tax Lot 80001).

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

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision; failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to the issue precludes an appeal based on that issue. You may submit testimony in written form by **5:00 p.m. August 19, 2022**, to the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365.

Those making written comment will be notified of the Community Development (Planning) Director's decision.

Contact: Beth Young, Associate Planner, b.young@newportoregon.gov, (541) 574-3341, Newport Community Development Department, 169 SW Coast Hwy, Newport, Oregon, 97365.

MAILED: August 5, 2022.

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

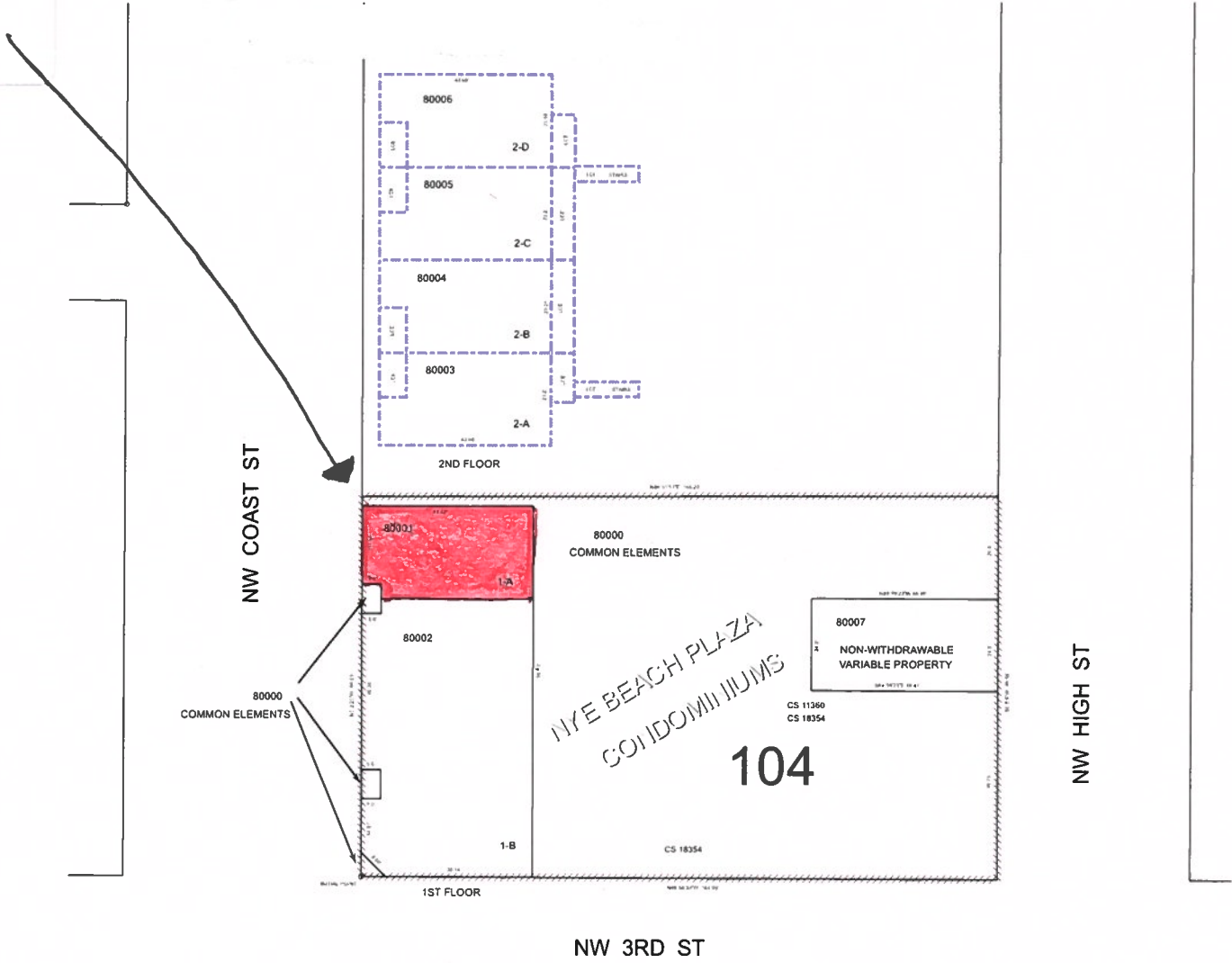
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



SUPPLEMENTAL MAP NO. 2
S.W.1/4 S.W.1/4 SEC.5 T.11S. R.11W. W.M.
LINCOLN COUNTY

11 11 05 CC
SUPP MAP NO 2
NEWPORT

Subject Property
File No. 2-CUP22



Revised: SEB
02/19/2014

NEWPORT
SUPP MAP NO 2
11 11 05 CC

ACKERMAN CAROLYN
310 NW COAST ST
NEWPORT,OR 97365

ARCHWAY PLACE CONDOMINIUM
HOMEOWNERS ASSOCIATION
325 NW COAST ST
NEWPORT,OR 97365

ATTILIO NICHOLAS & ATTILIO JANELLE
14413 W EUGENE TERR
SURPRISE,AZ 85379

BEAN JOSEPH W TRUSTEE & MUNGER
KAREN L TRUSTEE
435 CHESHIRE FARM LN
ST LOUIS,MO 63141

BENNETT STEVEN G & BENNETT
MARLA J
2255 DAWNWOOD DR
PHILOMATH,OR 97370

BRADLEY RAYMOND J
700 LAWRENCE ST
EUGENE,OR 97401

BREADEN BARBARA L & BREADEN
RONALD P
2155 DEVOS ST
EUGENE,OR 97402

BREADEN MATTHEW & BREADEN
RADHIKA
14353 AMBERWOOD CIR
LAKE OSWEGO,OR 97035

BRUSSELBACK LAWRENCE J &
BRUSSELBACK WENDY C
255 NW COAST ST
NEWPORT,OR 97365

CHADWICK DOUGLAS A & CHADWICK
TRACY A
334 NW HIGH ST
NEWPORT,OR 97365

CHAN HOMESTEAD LLC
4402 NW SENECA CT
CAMAS,WA 98607

CHAPMAN LUCINDA
PO BOX 206
NEWPORT,OR 97365

CLAPPER JOAN L
560 SE VERA AVE
CORVALLIS,OR 97333

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

COPPER CUP LLC
613 NW 3RD ST
NEWPORT,OR 97365

D & V PROPERTIES LLC
PO BOX 172
TIDEWATER,OR 97390

DEVRIES JOSEPH CHARLES TTEE &
DEVRIES JEANNIE STASIA TTEE
327 NW HIGH ST
NEWPORT,OR 97365

DITLEFSEN MICHAEL & JENNE JANIE
1055 HIGHLAND AVE NE
SALEM,OR 97301

FOSTER CARL W COTRUSTEE &
FOSTER VICTORIA S COTRUSTEE
477 E FISHING CREEK LN
EAGLE,ID 83616

FRANKLIN ELIZABETH J TSTEE &
FRANKLIN MICHAEL T TSTEE
742 NW BEACH DR
NEWPORT,OR 97365

HERNANDEZ GENARO SANTOS &
HERNANDEZ ROCIO SANTOS
PO BOX 312
NEWPORT,OR 97365

HETH MICHELLE K
1181 RYAN CT
WEST LINN,OR 97068

HOGAN FRANK A & HOGAN JUDY A
TRUSTEES
42 QUIET HILLS RD
POMONA,CA 91766

HUGHES COLLEEN C LVG TRUST &
HUGHES COLLEEN C TRUSTEE
269 LINNAEUS AVE
COOKEVILLE,TN 38501

K&B INVESTMENTS LLC
ATTN: TY HILDEBRAND
2668 CASCADIA INDUSTRIAL ST S
SALEM,OR 97302

KING MARIJO & PRESTEEN SCOTT
408 S 31ST ST
PHILOMATH,OR 97370

KOCHTA EGHILD TSTEE
626 NW 3RD ST
NEWPORT,OR 97365

LAMPSON MITCHELL B
325 NW COAST ST UNIT F
NEWPORT,OR 97365

LEHRMAN RORY A & LEHRMAN
ANGELA M
215 NW HIGH ST
NEWPORT,OR 97365

LINGHAM JUDITH M
PO BOX 28
NEWPORT,OR 97365

LOVAS STEPHEN E COTTEE & LOVAS
SONJA S COTTEE
PO BOX 2170
NEWPORT,OR 97365

MINES GARY L TRUSTEE & MINES VICKI
R TRUSTEE
1218 NE 125TH AVE
VANCOUVER,WA 98684

MOORE ROBERT J
210 E FLAMINGO RD UNIT 328
LAS VEGAS,NV 89169

MORRONE NATALE F JR
923 SE BAY BLVD
#300A
NEWPORT,OR 97365

MSM PROPERTIES LLC
2397 NW KINGS BLVD #173
CORVALLIS,OR 97330

NAGY EVELYN D
PO BOX 10412
EUGENE,OR 97440

NYE BEACH PLAZA CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
PO BOX 10412
EUGENE,OR 97440

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

OLD TOWN CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
501 COLDWATER CRK DR
ROCK SPRINGS,WY 82901

SEAVIEW HOMES LLC
193 NW 70TH
NEWPORT,OR 97365

SHAYKIN YANTIFF SERGIO J & BATTIGE
AIMEE
1818 SE MULBERRY AVE
PORTLAND,OR 97214

SOULAMI TARIK BELHAJ &
PRESISKAWATY NENNY
17300 NE 25TH WAY
REDMOND,WA 98052

SRD PROPERTIES LLC
200 SE VIEW CT
NEWPORT,OR 97365

WANKER MARK JOSEPH
21373 SW JOHNSON RD
WEST LINN,OR 97068

WIEBE MARTHA W TSTEE & WIEBE
DAVID A TSTEE
10205 HELMICK RD
MONMOUTH,OR 97361

WOLD RACHEL & WOLD TYRONE
12590 SW GLACIER LILLY CIR
PORTLAND,OR 97223

DAVID ADOLF
826 SW LEE ST
NEWPORT,OR 97365

File 2-CUP-22

Adjacent Property Owners Within 200 Ft

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

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

CenturyLink
 ATTN: Corky Fallin
 740 State St
 Salem OR 97301

Central Lincoln PUD
 ATTN: Ty Hillebrand
 PO Box 1126
 Newport OR 97365

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

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

****EMAIL****
 Nye Neighborhood Association
 Jan Kaplan
 nye.neighbors@gmail.com

Jan Kaplan, NNA President
 35 NW High St
 Newport OR 97365

Wendy Engler, NNA Secretary
 255 NW Coast St. Apt. B
 Newport OR 97365

Joseph Lease
 Building Official

Rob Murphy
 Fire Chief

Aaron Collett
 Public Works

Beth Young
 Associate Planner

Jason Malloy
 Police Chief

Steve Baugher
 Interim Finance Director

Laura Kimberly
 Library

Michael Cavanaugh
 Parks & Rec

Spencer Nebel
 City Manager

Clare Paul
 Public Works

Derrick Tokos
 Community Development

David Powell
 Public Works

Lance Vanderbeck
 Airport

EXHIBIT 'A'
 (Affected Agencies)

(2-CUP-22)

MEMO

City of Newport
Community Development Department



****Distributed Via Email****

Date: August 5, 2022

To: Spencer Nebel, City Manager
David Powell, Public Works
Aaron Collett, Public Works
Clare Paul, Public Works
Rob Murphy, Fire
Jason Malloy, Police
Steve Baugher, Finance
Michael Cavanaugh, Parks & Rec.
Laura Kimberly, Library
Lance Vanderbeck, Airport
Beth Young, Associate Planner
Derrick Tokos, Community Development
Joseph Lease, Building Official
Public Utilities

From: Sherri Marineau, Executive Assistant

RE: Conditional Use Permit # 2-CUP-22

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 deadline for comments. Please review this information to see if you would like to make any comments.

We must receive your comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

sm

Attachment

Sherri Marineau

From: Sherri Marineau
Sent: Friday, August 05, 2022 9:08 AM
To: 'odotr2planmgr@odot.state.or.us'; 'lisa.phipps@state.or.us'
Cc: 'nye.neighbors@gmail.com'
Subject: Conditional Use Permit 2-CUP-22
Attachments: Notice - File 2-CUP-22.pdf

Attached is a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description and map, and a deadline for comments. Please review this information to see if you would like to make any comments.

We must receive comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" response will be assumed.**

Sherri Marineau
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Sherri Marineau

From: Sherri Marineau
Sent: Friday, August 05, 2022 9:08 AM
To: Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Clare Paul; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher
Subject: Conditional Use Permit 2-CUP-22
Attachments: Notice - File 2-CUP-22.pdf

Attached is a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description and map, and a deadline for comments. Please review this information to see if you would like to make any comments.

We must receive comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" response will be assumed.**

Sherri Marineau
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Beth Young

From: Beth Young
Sent: Monday, August 22, 2022 2:15 PM
To: 'Wendy Engler'
Subject: RE: Testimony: File No. 2-CUP-22

Thank you, Wendy. I will put this in the file and it will be considered for my decision.

Beth



Beth Young, AICP
City of Newport Community Development Department
City Hall, 169 SW Coast Hwy.
Direct Line: 541-574-3341

Pronouns: she, her, they, their
Emails to and from this address are subject to public disclosure under Oregon public records law.

From: Wendy Engler <wendy.engler@yahoo.com>
Sent: Friday, August 19, 2022 4:36 PM
To: Beth Young <B.Young@NewportOregon.gov>
Subject: Testimony: File No. 2-CUP-22

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

Hello Beth,

This is my written testimony on File No. 2-CUP-22:

General testimony related to the Peninsula Urban Design Plan contained in the Comprehensive Plan and its implementing ordinance, the Historic Nye Beach Overlay Zone which governs this CUP Application:

- The City has invested years of planning and untold financial resources into preserving and improving the Nye Beach neighborhood with the goal of creating and maintaining a vibrant mixed-use district that contributes to the economy of Newport and is also a great place to live, work and visit.
- When the Nye Beach Overlay was established in 1997, the C-2 zoning allowed offices above the ground floor only in the central core area in order to create a pedestrian and business friendly streetscape without the "missing teeth" that offices fronting the sidewalk can create.

- The Streetscape improvements in 2000 were meant to further the pedestrian orientation of NW Coast in order to enhance foot traffic and commercial activity from NW 6th south to NW Olive.

- Currently, there are 3 existing real estate-oriented offices on the ground floor on NW Coast St between NW 3rd and NW Beach.

This is the heart of pedestrian and commercial activity in Nye Beach.

If this application is approved, there will be 4 offices and 6 retail businesses fronting NW Coast. That's 2/3rds of the businesses as offices fronting the sidewalk in the core tourist area. The purpose of Conditional Use Permits is to prevent this from happening.

- In the future, perhaps there could be spacing requirements for offices in the C-2 zone of the Nye Beach Overlay, similar to those for dispensaries or the above ground floor requirement reinstated .

- This business sounds fine it's just a matter of being out of place in the core C-2 zone on the ground floor.

File No. 2-CUP-22

Testimony on the specific Applicable Criteria: NZO Section 14.34.050:

(1) Yes - Public facilities can accommodate the proposed use.

(2) No- The request does not comply with the requirements of the underlying zone or overlay zone. Here's why:

This property is in the heart of the C-2 Zone. The purpose of this zone is "to provide for tourist needs as well as for the entertainment needs of permanent residents." This purpose is not acknowledged in the applicant's application dated 8/04/2022. It states:

#6a."The office will serve our real estate professionals and their clients."

#7b. "The Real Estate offices complies with current zoning."

Their business plan and compliance with zoning requirements does not address how they will serve tourists and contribute to the active pedestrian streetscape.

(3) No - The adverse impact of this business is that it doesn't fit the C-2 Zoning purpose and doesn't contribute to preserving and enhancing an active streetscape on NW Coast St.

(4) Yes -There is no building modification so it meets this criteria.

End of Testimony

If you have any questions please contact me.

Thank you,

Wendy Engler

Beth Young

From: Beth Young
Sent: Monday, August 22, 2022 1:50 PM
To: 'charboxer2@comcast.net'
Subject: RE: File 2-CUP-22

Hello Ms. Boxer—Thank you for sending your letter. Although the comment period is over we continue to allow public comment up until my decision is made, and I have not made my decision. Your comment will go into the file for 2-CUP-22

Beth

**Beth Young, AICP**

City of Newport Community Development Department
 City Hall, 169 SW Coast Hwy.
 Direct Line: 541-574-3341

Pronouns: she, her, they, their

Emails to and from this address are subject to public disclosure under Oregon public records law.

From: charboxer2@comcast.net <charboxer2@comcast.net>

Sent: Monday, August 22, 2022 9:49 AM

To: Beth Young <B.Young@NewportOregon.gov>

Cc: Derrick Tokos <D.Tokos@NewportOregon.gov>

Subject: File No.2-CUP-22

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

Derrick and Beth, I realize I am too late responding for this to qualify as public comment. All of my mail goes to my Portland address and piles up while I am in Newport. I had a longer than usual stay in Newport as I am getting ready to open my vintage store on the bay front over Labor Day. I arrived back in Portland on Saturday night and opened the Public Notice for the above referenced application.

I own property on the oceanfront side of Cliff Street, so I often comment on changes in the Nye Beach neighborhood. I tentatively plan on putting my property at 213 NW Cliff Street up for sale early next year.

I know there is concern from several of the retail business owners (that I am friends with) to have yet another real estate related business in Nye Beach. Nye Beach is marketed by the Nye Beach Merchants as an “artistic neighborhood with shopping and restaurants”. Upon approval, there will be three (3) real estate offices located in such a small area on Coast Street. I know other businesses are concerned about this as it leaves less reason for people to wander around to shop and eat when real estate offices use the street level space. What does a

3rd real estate business bring to an area that already has 2 real estate sales office and a mortgage company? What can another real estate business sales office offer that one of the other companies doesn't offer? The C-2 zoning allows for "Personal service-oriented retail sales and services", but I would question the need for 3 sales office is such close proximity to each other. Considering the real estate industry is now considered to be in the early stages of recession, I guess it will be survival of the fittest when there isn't enough business for all 3 sales offices to survive. If you look at the RMLS, there are multiple price reductions on many of the properties listed for sale along the coast. The Oregon Coast is not immune to a decline in real estate sales and values. There has been a record run-up of sales and property values, but real estate is cyclical, and we are entering a new cycle in the real estate market.

I realize the City of Newport has to look at the application objectively, however I wanted to at least comment (knowing it is not public comment), but comment as a property owner nearby.

Charlotte Boxer

2-CUP-22

Beth Young

From: Beth Young
Sent: Wednesday, August 10, 2022 1:35 PM
To: 'Kris Beshire'
Cc: Derrick Tokos
Subject: RE: Design District

*2nd email
sent 8/16/22
1:35 pm
BY*

Hello --Is this in reference to Conditional Use Permit application #2-CUP-22? Please give me a name, address or CUP # so I can place it in the correct file.

Beth



Beth Young, AICP
 City of Newport Community Development Department
 City Hall, 169 SW Coast Hwy.
 Direct Line: 541-574-3341

Pronouns: she, her, they, their

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-----Original Message-----

From: Kris Beshire <beshire@charter.net>
Sent: Wednesday, August 10, 2022 10:42 AM
To: Beth Young <B.Young@NewportOregon.gov>
Subject: Design District

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

Guidelines were put in place for commercial space for a good reason. As neighbors, we strongly recommend that no conditional use be granted.

Kristine & Alan Beshire
 537 SW Woods St.
 Newport, OR 97365
 beshire@charter.net

Sent from my iPad

Beth Young

From: Beth Young
Sent: Friday, August 26, 2022 3:26 PM
To: 'Dave Adolf'
Subject: RE: 2-CUP-22



NewportMunici...

Hi David—

As we discussed by phone, I will need a more detailed narrative than what you included in your application 2-CUP-22. Overall, you need to show (1) why your office needs to be in Nye Beach (as opposed to elsewhere in town) and (2) how this will benefit the tourists in particular, but also the neighborhood. Perhaps you will wish to say why you need tourist foot traffic, You may want to pay attention to what seasons and days of the week the most tourists are walking by, and be able to accommodate them. Perhaps your office will have features that go with the Nye Beach vibe, if you will. These may be fundamental changes to your business plan for this location so I'm not suggesting anything in particular.

Here are the parts of the code that you need to respond to, broken down:

Chapter 14.01 (definitions)

Conditional Use. A use that may be permitted depending upon the individual circumstances. A conditional use permit will not be issued or shall be so conditioned so that neither the public nor neighboring property owners are unduly affected in an adverse way.

Section 14.03.070

I suggest you look at this chart to see other uses permitted or needing a CUP in Nye Beach (C-2).

Chapter 14.34 (conditional uses), in particular:

14.34.010 Purpose

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses." It is the purpose of this section to establish the terms, criteria, and procedures by which Conditional Uses may be permitted, enlarged, or altered. It is further the purpose of this section to supplement the other sections of this Code and the Comprehensive Plan. Nothing in this section guarantees that a Conditional Use permit will be issued.

14.34.020 General Provisions

A. Application for approval of a Conditional Use may be processed and authorized under a Type II or a Type III decision making procedure as provided by Section 14.52, Procedural Requirements, as well as the provisions of this Section.

B. A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the approval authority.

C. The findings and conclusions made by the approval authority and the conditions, modifications, or restrictions of approval, if any, shall specifically address the relationship between the proposal and the approval criteria listed in Section 14.34.050, in the underlying zoning district, and any applicable overlay zones. ***

D. An application shall be approved if it satisfies the applicable criteria or can be made to meet the criteria through imposition of reasonable conditions of approval. If findings or data or reasonable conditions cannot bring an application into compliance with the criteria, then the application shall be denied.

*The underlying zoning for this is C-2. C-2/"Tourist Commercial.

NMC 14.03.040 Intent of Zoning Districts: Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district. . . . [C-2] The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents.

**The overlaying zoning for this is Historic Nye Beach Design Review District, Chapter 14.30. especially 14.30.010 and 14.30.020

Also attached is the Application Submittal Requirements for CUP's. Item #7 is what you are addressing.



onditionalUseISta
(1).pdf

Beth



Beth Young, AICP
City of Newport Community Development Department
City Hall, 169 SW Coast Hwy.
Direct Line: 541-574-3341

Pronouns: she, her, they, their

Emails to and from this address are subject to public disclosure under Oregon public records law.

From: Dave Adolf <oregoncoastdave@gmail.com>
Sent: Tuesday, August 23, 2022 6:05 PM
To: Beth Young <B.Young@NewportOregon.gov>
Subject: Re: 2-CUP-22

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

Thank you for letting me know.

Regards, Dave

DAVID ADOLF

BROKER | REALTOR®

President, Executive Board of Directors, Lincoln County Board of REALTORS®

Chairman, Safety Committee, Lincoln County Board of REALTORS®

Professional Development Key Committee, OREGON REALTORS®

Safety Committee, OREGON REALTORS®

Licensed Broker in Oregon #201210041

M: 541.961.8120 M: 509.981.8685

dave@rogatb.com

oregoncoastdave@gmail.com

<https://davidadolf.myrealtyonegroup.com>

REALTYC

826 SW Lee St, Newport Oregon 97365

On Tue, Aug 23, 2022 at 4:41 PM Beth Young <B.Young@newportoregon.gov> wrote:

Hello David—Per our conversation today, I just wanted you to know that I will be writing that detailed email to you tomorrow. Sorry for the delay.

Beth



Beth Young, AICP

City of Newport Community Development Department

City Hall, 169 SW Coast Hwy.

Direct Line: 541-574-3341

Pronouns: she, her, they, their

Emails to and from this address are subject to public disclosure under Oregon public records law.



ONE REALTY ONE GROUP
AT THE BEACH

*Received
8/30/22
C.D.D.*

City of Newport
169 SW Coast Hwy
Newport, OR 97365
Date 8/30/2022

RE: Conditional Use Application Narrative

Dear Beth Young,

We originally opened our office in Newport May of 2019. Our office was born out of our first meeting with a group of Newport brokers that wanted to join our company. We did not have any presence on the coast at that time. We had one office in Salem with no plans to grow west. We met this group at Cafe Mundo and it was the right fit from that meeting on. They decided to join us and we were lucky to have this great group of people on our team.

After the meeting my business partner and I took a walk towards Nana's and decided at that time we wanted to be a part of the NYE Beach community. The only retail space that was available was the corner across from Nana's where Petunias is currently located. We wrote a letter of intent and unfortunately for us they chose Petunias.

We had to find a location and came across our current location in the Art Deco area of Newport on Lee St. Our intention was always to find a place in NYE Beach for the office. I had heard such great things about being there on a daily basis from our broker Dave Adolf who had worked at a brokerage in Nye Beach.

Our vision for the space is to incorporate the Nye Beach vibe within the office and also provide an area within the office that will offer tourists and the local community that will provide offerings from local businesses, maps, upcoming events, basically, a Travel Newport/Nye Beach section. We would plan on participating in everything we can that will be a part of the Nye Beach community. We currently do the wine walk and first Fridays at our Albany office, it's such a great way to meet the community. We would do something similar and friendly in this office to take care of the tourists and locals on the weekends. We want to have the office open to tourists so we can help them find their dream beach home.

At our Lincoln City office we offer wall space in our ONE Gallery to local artists to show and promote their art. We would have a special event during the month to showcase them. I think that would be a great thing to do in this location. Plus, we know of local artists so we could showcase their art. We can promote the local artists on our social media, in the office and in the windows of our space.

As far as I know the other real estate businesses on the street are not open 7 days a week. Our plan is to be open everyday during peak times of the year.

Sincerely,

Ty Hildebrand, Owner

Realty ONE Group At the Beach
826 Lee SW St
Newport OR 97365



CITY OF NEWPORT

Business Plan

SEP 08 2022

RECEIVED

Executive Summary**Our Mission**

No matter how big or small, giving back is part of our coolture. It's who we are as a company. We're opening doors for those in need, together as ONE.

The Vision

To make a positive impact and difference in lives, locally and across the globe. A simple act of kindness can change someONE's world and can be re-energized and fulfill ONE's purpose.

Mission Statement

Our ONE Focus is YOU. This statement encompasses everything we believe in from our real estate professionals, their clients and the community.

Company History and Leadership:

Our first office was opened in Salem in 2018 and our Newport office was started in June of 2019. We currently operate five offices, three in the valley and two on the coast. Our Owner and Managing Broker is Ty Hildebrand, Managing/Supervising Broker is Kristi Sieng, and our Director of Learning and Community Relations is Madyson Jones.

Company Giving:

Realty ONE Group Cares Inc.

A 501(c)3 organization that serves as the charitable entity for our ONE family. Committed to #GiveONEBack and appreciating the communities where we live, work, and play.

Purpose

Opening doors across the globe-ONE home, ONE dream, ONE life at a time.

Manifesto

You have ONE life to live. ONE chance to make it meaningful and ONE opportunity to live with no regrets. Take risks, be bold, seize the day and lead with respect. Your circumstances will change, people will change, you will change. Be open to it, embrace it, live it. EveryONE matters and everyONE has a voice.

Realty ONE Group At the Beach

826 Lee SW St
Newport OR 97365

Company Goals

- **Short term goal:** To open a real estate office in the Nye Beach area.
 - **Objective:** Procure office space in the Nye Beach area.
 - **Objective:** To obtain a conditional use permit next 30 days

- **Long term goal:** Increase foot traffic into the office.
 - **Objective:** Creating an office space to cater to not only our Realtors and their clients but also the Nye Beach tourists and local community.
 - **Objective:** Open the office to all the events that are put on for the community i.e Wine Walk, Trick or Treating, Small Business Saturday, featuring local artists in our office, having an area in the office for tourists to come in and get information about Nye Beach and Newport etc..

- **Goal:** Increase the number of real estate listings.
 - **Objective:** Through community involvement and building brand awareness.

- **Goal:** Open 7 days a week.
 - **Objective:** Cater to the large number of tourists and locals

- **Goal:** Community and Tourist Minded
 - **Objective:** Open our office to local artists to display their art, provide an area with maps, list of events

- **Goal:** Partner with Nye Beach businesses
 - **Objective:** Promote each other's businesses through joint marketing and events.

- **Goal:** Host customer appreciation events
 - **Objective:** Make your own pizza,
 - **Objective:** Cinco de Mayo: Tacobout your Financing
 - **Objective:** Thanksgiving pumpkin pie give away
 - **Objective:** Photos with Santa
 - **Objective:** Toys for Tots w/ Salvation Army
 - **Objective:** School supplies drive

- **Goal:** Showcase community homes and property listings
 - **Objective:** Listings shown in the window



We truly believe that moving our office to Nye Beach will be a compliment to an already great and diverse community of businesses. As you can see from our goals and objectives, we have a clear plan of action to include activities and showcase local businesses that will appeal to locals and tourists alike. We have been successful in integrating the community into our business plan in other areas of the state and look forward to making Nye Beach an even bigger success.

CITY OF NEWPORT

SEP 08 2022

RECEIVED

Realty ONE Group At the Beach
826 Lee SW St
Newport OR 97365

**BEFORE THE COMMUNITY DEVELOPMENT
(PLANNING) DIRECTOR OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF LAND USE FILE NO. 2-CUP-22)
APPLICATION FOR A CONDITIONAL USE PERMIT, AS) **FINAL**
SUBMITTED BY TY HILDEBRAND, K&B INVESTMENTS) **ORDER**
(DAVID ADOLF, AUTHORIZED REPRESENTATIVE))**

ORDER DENYING A CONDITIONAL USE PERMIT pursuant to Section 14.03.070(2)(c) of the Newport Municipal Code (NMC), for utilization of an existing 984-square foot commercial space. The property is zoned C-2/"Tourist-Commercial," where real estate services are classified as a conditional use (NMC 14.03.060(C)(2)).

WHEREAS:

- 1.) The Community Development (Planning) Director has duly accepted the application, filed consistent with the Newport Zoning Ordinance; and
- 2.) The Community Development (Planning) Director has duly considered the request and has given proper and timely notice to affected property owners; and
- 3.) The Community Development (Planning) Director has allowed for evidence and recommendations from interested persons, Community Development (Planning) Department staff, other City departments, and local utilities; and
- 4.) At the conclusion of review of evidence submitted and after consideration of the request, the Newport Community Development (Planning) Director **DENIED** the request for said Conditional Use Permit.

THEREFORE LET IT BE RESOLVED by the City of Newport Community Development (Planning) Director that the attached Findings of Fact and Conclusions (Exhibit "A") support the denial of the request for a Type II Conditional Use Permit.

BASED UPON THE ABOVE, the Community Development (Planning) Director determines that the applicant in the request for a Type II Conditional Use Permit as submitted in the application has not met the burden of demonstrating compliance with all of the applicable criteria and therefore a determination that the request is in conformance with the provisions of the Zoning Ordinance of the City of Newport cannot be made.

Accepted and approved this 20th day of September 2022.


Beth Young, AICP
Community Development Director

Attest:



Sherri Marineau
Executive Assistant

EXHIBIT "A"**Case File No. 2-CUP-22****FINDINGS OF FACT**

1. This request by Ty Hildebrand, K&B Investments, is for a Conditional Use Permit per Section 14.03.070(2)(c) of the Newport Municipal Code (NMC), to allow a real estate office in an existing 984-square foot commercial space. The property is zoned C-2/"Tourist-Commercial," where real estate services are classified as a conditional use (NMC 14.03.060(C)(2)).
2. The Newport Municipal Code (NMC) Section 14.34.030 allows for a conditional use permit to be processed and authorized using a Type II (staff level) decision-making procedure under the following circumstances:
 - A. The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
 - B. Involves a piece(s) of property that is less than one (1) acre in size.
3. The applicant is Ty Hildebrand and the representative is David Adolf. Ty Hildebrand, Cascadia Industrial St., Salem Oregon, is the authorized representative of K&B Investments, LLC, owner of Realty One Group – At The Beach, an active business with the Oregon Secretary of State, registry number 1553448-99 (start date May 2, 2019).
4. The application for a conditional use permit was submitted on August 8, 2022 and was deemed complete on September 8, 2022. The application was accompanied by a completed application form, a business plan, a written narrative (findings), photographs of the exterior space with superimposed proposed signage, and a proposed floor plan. All of the application materials can be found in the file.
5. The property is located at 315 NW Coast Street and is further identified as Tax Lot 80001 on Lincoln County Assessor's Tax Map 11-11-05-CC. The subject commercial space is in a building that covers this entire lot and the adjacent Lot 80004 of Tax Map 11-11-05-CC. The building is mixed use with retail establishments on the ground floor and residences above. The adjacent parking lot on the east side of the building is owned by the Nye Beach Plaza Condominiums Association of Unit Owners (Lot 80000, Tax Map 11-11-05). The Newport Comprehensive Plan designation for this property is Commercial. The zoning designation is C-2/"Tourist Commercial," and the subject property is within the Historical Nye Beach Design Review District overlay, the Short-Term Rental "Transferable" overlay and the Nye Beach Parking District overlay. Surrounding land uses are a mix of tourist commercial and residential uses.
6. A Property Report from the Lincoln County Assessor's Office notes that this building was constructed in 1999. No changes are proposed to the building facade.
7. The applicant writes that the first Realty One Group office opened in Salem in 2018 and the

Realty One Group currently operates three offices in the Willamette Valley and two on the coast. The applicant writes that they first wanted to locate in Nye Beach and wrote a letter of intent to one Nye Beach commercial property owner which was denied. They then opened the current office at 826 SW Lee Street.

8. The applicant writes in the submitted narrative and business plan that they would like to display and promote local art; provide maps and listings of local events in the lobby, be open every day during peak tourist times of the year, and hold customer appreciation events.
9. Upon acceptance of the application, the Community Development Director shall notify property owners within 200 feet of the subject property and affected public/private agencies/utilities. The applicant submitted a list of property owners within the area to be notified as part of the application request. Said notice was mailed on August 5, 2022. (Copy of the notice is in the file.) The notice contained the criteria by which the conditional use permit is to be assessed. Affected parties were given until August 19, 2022 in which to make comment on the application.
10. Three comments were received in response to the public notice, all in opposition to permit approval. Comment from Wendy Engler submitted on August 19, 2022, states that the applicant did not adequately address how they would serve tourists, which “does not comply with the requirements of the underlying zone or overlay zone.” The applicant was made aware of these comments and subsequently submitted additional application materials which addressed this issue. The remaining comments did not address the criteria for a Conditional Use Permit.
11. The criteria for the Conditional Use Permit pursuant to NMC Section 14.34.050 are:
 - A. The public facilities can adequately accommodate the proposed use.
 - B. The request complies with the requirements of the underlying zone or overlay zone.
 - C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.
 - D. A proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

1. NMC Section 14.34.030/ “Approval Authority,” states that a request qualifies as a Type II decision if a proposed use generates less than 50 additional trips per day and the subject property is less than an acre. The space was originally designed for specialty retail use, an Institute of Traffic Engineers trip generation category that encompasses sales and personal service retail uses (Ref: ITE Category 814). The leasable area is not being expanded; therefore, no additional vehicle trips per day will be generated as a result of the new tenancy. According

to the Assessor's Map, the subject property is well under an acre in size. Given the above, the request complies with the criteria to qualify for a Type II decision-making process by the Community Development Director. A Type II decision-making process is one where the initial decision is made by the Director with public notice and an opportunity to comment but without a hearing (NMC 14.52.020(B)).

2. With regards to the criteria for approval of a Conditional Use Permit listed under NMC 14.34.050, the following conclusions can be drawn:

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

i. Public facilities are defined in the Municipal Code as including sanitary sewer, water, streets and electricity. The applicant's findings indicate that the public facilities can adequately accommodate the proposed use.

ii. The applicant points out that the office is "very small" and that foot traffic of real estate professionals, clients and vendors will be no more than that of previous uses.

iii. Water service is available via an 8-inch line in NW Coast Street. Sewer service is provided via a 12-inch main in the same street. Electric service is available at the site.

iv. Northwest Coast Street is fully developed with sidewalks and marked crosswalks. This section of Coast Street is designed to slow vehicle speeds and promote pedestrian movement. Structured storm drainage infrastructure is in place to collect the runoff from the property and street, with the drainage ultimately being discharged into the ocean.

v. Based on the above, the Community Development Director finds that this criterion has been satisfied.

B. *The request complies with any special requirements of the underlying zone or overlay zone.*

i. The underlying zone for the property is C-2/"Tourist Commercial." Personal service-oriented businesses are a conditional use in this district.

ii. A personal service-oriented land use category was created when the commercial and industrial land use element of the zoning ordinance was restructured in 2011 (Ordinance No. 2022). This use category is characterized as including the following types of businesses:

"Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming."

This category of uses was identified as conditional within the city's C-2/"Tourist Commercial" zone because there is a finite amount of retail space in tourist oriented areas, and policy makers determined that such space needs to be reserved for complimentary uses. Many personal-service uses do not need to be located in tourist areas, and can just as effectively locate in Newport's other commercial or light industrial zones where there are additional lease or ownership opportunities. The conditional use process is the mechanism for reviewing personal-service uses to ensure they complement the tourist oriented nature of the C-2 district.

iii. The applicant is currently operating an office in the "Deco District," Newport's central business district. Zoning for this location is C-1, where real estate offices are an outright-permitted use. Zone C-1 is distinguished from Zone C-2—where the applicant would like to relocate to—in that it is designated for a variety of commercial services and retail establishments that are not primarily tourist-oriented. There are many long-operating real estate offices in Newport's C-1 zone.

iv. Although the submitted business plan states that Nye Beach tourist traffic would increase listings and sales, it is not apparent that a presence in a tourist area is key to the plan or that this is the only way the business can be successful. In addition, the applicant's existing office is outside of Nye Beach in Zone C-1, a zone that is not tourist-oriented like C-2; this is evidence that the business model does not rely upon tourist traffic.

v. Based on the above, the Community Development Director finds that this criterion has not been satisfied.

C. *The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. For the purpose of this criterion, "adverse impact" is the potential adverse physical impact of a proposed conditional use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.*

i. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Newport Municipal Code as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

ii. The proposed location of the applicant's real estate office is an existing storefront. The application includes a signage plan which meets City signage standards, and statements that the window dressings and decor would reflect the Nye Beach "vibe."

iii. The proposed business will not generate additional vehicle trips to the site any more than the previous occupants of the proposed location.

iv. The proposed business will be within an existing enclosed structure; it is highly unlikely that any nuisance concerns outlined above would be an issue.

v. Based on the above, the Community Development (Planning) Director finds that this

criterion has been satisfied.

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

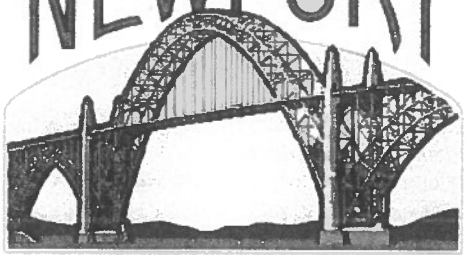
i. The application is for a leased space in an existing building and no exterior or structural modifications will be performed as part of this application.

ii. Based on the above, the Community Development (Planning) Director finds that this criterion has been satisfied.

OVERALL CONCLUSION

The request does not comply with the criteria established for a Conditional Use Permit and is hereby DENIED.

NEWPORT



169 SW COAST HWY
NEWPORT, OREGON 97365

COAST GUARD CITY, USA

www.newportoregon.gov

MOMBETSU, JAPAN, SISTER CITY

OREGON

COMMUNITY DEVELOPMENT DEPARTMENT
(541) 574-0629
FAX: (541) 574-0644

NOTICE OF DECISION

September 20, 2022

The Newport Community Development (Planning) Director, by final order signed today, September 20, 2022, has denied a Conditional Use Permit as described herein:

FILE NO: 2-CUP-22.

APPLICANT & OWNER: David Adolf, representative (Ty Hildebrand, K & B Investments, LLC, property owner).

REQUEST: Denial of a request per Section 14.03.070/"Commercial and Industrial Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone for which personal service oriented retail sales and services are a conditional use.

PROPERTY LOCATION: 316 NW Coast St, Newport, OR 97365 (Lincoln County Assessor's Map 11-11-05-CC; Tax Lot 80001).

THIS DECISION MAY BE APPEALED TO THE NEWPORT PLANNING COMMISSION WITHIN 15 CALENDAR DAYS OF THE DATE THE FINAL ORDER WAS SIGNED, OR THE NEXT BUSINESS DAY IF THE DATE FALLS ON A WEEKEND OR HOLIDAY (5:00 p.m., October 5, 2022). Contact the Community Development (Planning) Department, Newport City Hall, 169 SW Coast Hwy, Newport, Oregon 97365 (541-574-0629) for information on appeal procedures.

The applicant or other person may appeal a decision of the Community Development Director to the Planning Commission if that person appeared before the Community Development Department in writing during the period allowed for written comments from the public. Appeals from a decision of the Community Development Director are heard by the Planning Commission as a *de novo* hearing (a brand new public hearing).

Sincerely,

Sherri Marineau
Executive Assistant

Enclosures

cc: Ty Hildebrand, K & B Investments, LLC, property owner (property owner)
David Adolf (representative)



Wendy Engler, opponent
Charlotte Boxer, opponent
Kristine & Alan Beshire, opponents
Joseph Lease, Building Official (*letter only via email*)
Derrick Tokos, Community Development Director (*letter only via email*)
Beth Young, Associate Planner (*letter only via email*)
Business License Dept. (*letter only via email*)

ACKERMAN CAROLYN
310 NW COAST ST
NEWPORT,OR 97365

ARCHWAY PLACE CONDOMINIUM
HOMEOWNERS ASSOCIATION
325 NW COAST ST
NEWPORT,OR 97365

ATTILIO NICHOLAS & ATTILIO JANELLE
14413 W EUGENE TERR
SURPRISE,AZ 85379

BEAN JOSEPH W TRUSTEE & MUNGER
KAREN L TRUSTEE
435 CHESHIRE FARM LN
ST LOUIS,MO 63141

BENNETT STEVEN G & BENNETT
MARLA J
2255 DAWNWOOD DR
PHILOMATH,OR 97370

BRADLEY RAYMOND J
700 LAWRENCE ST
EUGENE,OR 97401

BREADEN BARBARA L & BREADEN
RONALD P
2155 DEVOS ST
EUGENE,OR 97402

BREADEN MATTHEW & BREADEN
RADHIKA
14353 AMBERWOOD CIR
LAKE OSWEGO,OR 97035

BRUSSELBACK LAWRENCE J &
BRUSSELBACK WENDY C
255 NW COAST ST
NEWPORT,OR 97365

CHADWICK DOUGLAS A & CHADWICK
TRACY A
334 NW HIGH ST
NEWPORT,OR 97365

CHAN HOMESTEAD LLC
4402 NW SENECA CT
CAMAS,WA 98607

CHAPMAN LUCINDA
PO BOX 206
NEWPORT,OR 97365

CLAPPER JOAN L
560 SE VERA AVE
CORVALLIS,OR 97333

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

COPPER CUP LLC
613 NW 3RD ST
NEWPORT,OR 97365

D & V PROPERTIES LLC
PO BOX 172
TIDEWATER,OR 97390

DEVRIES JOSEPH CHARLES TTEE &
DEVRIES JEANNIE STASIA TTEE
327 NW HIGH ST
NEWPORT,OR 97365

DITLEFSEN MICHAEL & JENNE JANIE
1055 HIGHLAND AVE NE
SALEM,OR 97301

FOSTER CARL W COTRUSTEE &
FOSTER VICTORIA S COTRUSTEE
477 E FISHING CREEK LN
EAGLE,ID 83616

FRANKLIN ELIZABETH J TSTEE &
FRANKLIN MICHAEL T TSTEE
742 NW BEACH DR
NEWPORT,OR 97365

HERNANDEZ GENARO SANTOS &
HERNANDEZ ROCIO SANTOS
PO BOX 312
NEWPORT,OR 97365

HETH MICHELLE K
1181 RYAN CT
WEST LINN,OR 97068

HOGAN FRANK A & HOGAN JUDY A
TRUSTEES
42 QUIET HILLS RD
POMONA,CA 91766

HUGHES COLLEEN C LVG TRUST &
HUGHES COLLEEN C TRUSTEE
269 LINNAEUS AVE
COOKEVILLE,TN 38501

K&B INVESTMENTS LLC
ATTN: TY HILDEBRAND
2668 CASCADIA INDUSTRIAL ST S
SALEM,OR 97302

KING MARIJO & PRESTEEN SCOTT
408 S 31ST ST
PHILOMATH,OR 97370

KOCHTA EGHILD TSTEE
626 NW 3RD ST
NEWPORT,OR 97365

LAMPSON MITCHELL B
325 NW COAST ST UNIT F
NEWPORT,OR 97365

LEHRMAN RORY A & LEHRMAN
ANGELA M
215 NW HIGH ST
NEWPORT,OR 97365

LINGHAM JUDITH M
PO BOX 28
NEWPORT,OR 97365

LOVAS STEPHEN E COTTEE & LOVAS
SONJA S COTTEE
PO BOX 2170
NEWPORT,OR 97365

MINES GARY L TRUSTEE & MINES VICKI
R TRUSTEE
1218 NE 125TH AVE
VANCOUVER,WA 98684

MOORE ROBERT J
210 E FLAMINGO RD UNIT 328
LAS VEGAS,NV 89169

MORRONE NATALE F JR
923 SE BAY BLVD
#300A
NEWPORT,OR 97365

MSM PROPERTIES LLC
2397 NW KINGS BLVD #173
CORVALLIS,OR 97330

NAGY EVELYN D
PO BOX 10412
EUGENE,OR 97440

NYE BEACH PLAZA CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
PO BOX 10412
EUGENE,OR 97440

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

OLD TOWN CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
501 COLDWATER CRK DR
ROCK SPRINGS,WY 82901

SEAVIEW HOMES LLC
193 NW 70TH
NEWPORT,OR 97365

SHAYKIN YANTIFF SERGIO J & BATTIGE
AIMEE
1818 SE MULBERRY AVE
PORTLAND,OR 97214

SOULAMI TARIK BELHAJ &
PRESISKAWATY NENNY
17300 NE 25TH WAY
REDMOND,WA 98052

SRD PROPERTIES LLC
200 SE VIEW CT
NEWPORT,OR 97365

WANKER MARK JOSEPH
21373 SW JOHNSON RD
WEST LINN,OR 97068

WIEBE MARTHA W TSTEE & WIEBE
DAVID A TSTEE
10205 HELMICK RD
MONMOUTH,OR 97361

WOLD RACHEL & WOLD TYRONE
12590 SW GLACIER LILLY CIR
PORTLAND,OR 97223

DAVID ADOLF
826 SW LEE ST
NEWPORT,OR 97365

File 2-CUP-22

Adjacent Property Owners Within 200 Ft

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

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

CenturyLink
 ATTN: Corky Fallin
 740 State St
 Salem OR 97301

Central Lincoln PUD
 ATTN: Ty Hillebrand
 PO Box 1126
 Newport OR 97365

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

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

****EMAIL****
 Nye Neighborhood Association
 Jan Kaplan
 nye.neighbors@gmail.com

Jan Kaplan, NNA President
 35 NW High St
 Newport OR 97365

Wendy Engler, NNA Secretary
 255 NW Coast St. Apt. B
 Newport OR 97365

Joseph Lease
 Building Official

Rob Murphy
 Fire Chief

Aaron Collett
 Public Works

Beth Young
 Associate Planner

Jason Malloy
 Police Chief

Steve Baugher
 Interim Finance Director

Laura Kimberly
 Library

Michael Cavanaugh
 Parks & Rec

Spencer Nebel
 City Manager

Clare Paul
 Public Works

Derrick Tokos
 Community Development

David Powell
 Public Works

Lance Vanderbeck
 Airport

EXHIBIT 'A'
 (Affected Agencies)

(2-CUP-22)



City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) if other than applicant
Ty Hildebrand K&B Investments LLC	
Applicant Mailing Address:	Property Owner Mailing Address:
3603 Burning Tree Dr. S, Salem, OR 97302	
Applicant Phone No.	Property Owner Phone No.
503 881 2313	
Applicant Email	Property Owner Email
ty@rogwv.com	
Authorized Representative(s): Person authorized to submit and act on this application on applicant's behalf	
Zachary Dablow	
Authorized Representative Mailing Address:	
494 State Street Suite 300D, Salem, OR 97301	
Authorized Representative Telephone No.	
503 485 4168	
Authorized Representative Email. zachary@dablowlaw.com	

Project Information

Property Location: Street name if address # not assigned
315 NW Coast Street

Tax Assessor's Map No.: 11-11-05-CC Tax Lot(s): 80001 and 80004

Zone Designation: C2 Legal Description: Add additional sheets if necessary

Comp. Plan Designation:

Brief description of Land Use Request(s): **Conditional Use in Zone C2**
Examples:
1. Move north property line 5 feet south
2. Variance of 2 feet from the required 15-foot front yard setback

Existing Structures: if any

Commercial structure

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: 2-CUP-22-A

Date Received: 10/4/22 Fee Amount: \$250 Date Accepted as Complete:

Received By: sm Receipt No. 10315 Accepted By:

City Hall
169, SW Coast Hwy
Newport, OR 97365
541.574.0629
625-22-000054-PLUG-01



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.

DocuSigned by:
Ty Hildebrand
54EF42E35787A9F



10/5/2022 | 4:50 PM PDT

Applicant Signature(s)

Date

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

Date

Authorized representative Signature(s) (if other than applicant)

Date

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


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



City of Newport Land Use Application

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

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

Applicant Signature(s)	Date
Property Owner Signature(s) (if other than applicant)	Date
 Authorized representative Signature(s) (if other than applicant)	10/5/22 Date

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

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

October 4, 2022

Newport Planning Commission
Community Development (Planning) Department
Attn: Sherri Marineau
Via Email Only: s.marineau@newportoregon.gov

RE: My Client: K&B Investments
In the Matter of Land Use File No. 2-CUP-22

Appeal of Final Order

Identification of Decision Sought to be Reviewed – Appeal of Land Use Decision of September 20, 2022, specifically File No. 2-CUP-22

Statement of Standing – I represent K&B Investments, that appeared in the underlying decision in writing through its representative Mr. Adolf.

Grounds for Appeal – Only one grounds were found lacking in the underlying conditional use permit application. That ground was: *The request complies with any special requirements of the underlying zone or overlay zone.*

First, the specific standard or intent of the zone according to the code reads: "The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents." While this intent to provide for specific needs, it presents no special requirements, outside of providing for either tourist needs, or for entertainment needs of residents. The Community Development Director identified compliance with this standard as the property needing to "complement the tourist-oriented nature of the C-2 district."

The applicant first raises as grounds for appeal that the community development director improperly narrowed the standard for the applicable zone, because the standard also contemplates entertainment needs for permanent residents, which wasn't considered in the Director's analysis.

Second, both under the more narrow, and broader definition of the C-2 district zone, the plan does address and serve the intent of the district through the business plan's use of the space that is consistent with the intent of the zone. The Director focused on the benefit to the business in the location, and the fact that a business could exist elsewhere, when the latter consideration is inapplicable to whether the proposed use as detailed in the plan served the intent of the requested conditional use. The applicant respectfully contends that had the Director focused on the parts of the business plan that benefit both tourists and the permanent residents of Newport, then it would have found this factor to have been satisfied.

Specifically, the business plan addressed the office acting as a local art gallery, and that special events would be held for the entertainment of the permanent residents and tourist visitors. This delivery of services combined with the events to be held in the space do serve both a tourist function, as well as provide entertainment options to the permanent residents.

While tourism is often thought of through the prism the natural beauty and the public amenities of the city act as a focal point, tourists often enjoy a location by taking in the architecture of the various collection of real estate that provides a rich and detailed background to the tapestry that Newport provides through its more stark public points of interest such as the Yaquina Bay Bridge, the public beaches, and the historic bayfront. Indeed, a large portion of "tourism" as a concept, now encapsulates a term called "residential tourism" which is injecting a slightly less transient component to visitors of the area, and given the use of the term "permanent residents" as one of the intent categories, it appears that part-time residents which make up "residential tourism" seem to be contemplated in the code's use of the term tourism in describing the intent of the zone. By showcasing and promoting the purchase of available residential units by non-permanent residents, the use of the premises under the application directly serves the purpose of expanding tourism. While it is true some types of more short term and transient tourism may not be as well served, to the overall goal of serving the interest of tourism, providing a mechanism for short-term, one-time tourists, to become more regular part time "residential tourists" serves to increase total tourism overall.

This Appeal is De Novo – Per the terms of the denial.

Sincerely,

s/ Zachary Dablow

Zachary Dablow

nrb

cc: client (via email only)

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

The City of Newport Planning Commission will hold a de novo public hearing on Monday, November 14, 2022, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-22-A, a request submitted by Zachary Dablow, P.C., attorney at law, representative (Ty Hildebrand, K & B Investments, LLC, applicant/property owner), for an appeal of the Community Development Director's decision denying a Conditional Use Permit Application (File No. 2-CUP-22). The appeal challenges the Community Development Director's denial of a request per Section 14.03.070/"Commercial and Industrial Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone for which personal service oriented retail sales and services are a conditional use. The property is located at 316 NW Coast St, Newport, OR 97365 (Lincoln County Assessor's Map 11-11-05-CC; Tax Lot 80001). The applicable criteria per NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. The Planning Commission will hold a de novo public hearing on the decision that has been appealed. With a de novo hearing, any interested person or entity can provide public testimony, including the introduction of new evidence that was not available at the time the original decision was rendered. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport 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. Testimony may be submitted in written or oral form. Written testimony must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797(6), any person prior to the conclusion of this initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, 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).

FOR PUBLICATION ONCE ON FRIDAY, November 4, 2022.

of: Parking, driveway, pedestrian, storm, and landscape improvements at the Lincoln City Cultural Center site. This will consist of curbing, sidewalks, a driveway with pedestrian ramps, infiltration trench, aggregate base, HMAC pavement, striping, and extensive landscape improvements and artistic paving as detailed in the bid form. The Issuing Office for the Bidding Documents is: Civil West Engineering Services; Keven Shreeve, PE. Bidding Documents may be viewed at www.QUESTCDN.com, and at the Lincoln City Cultural Center. To be qualified to submit a Bid the Contractor must obtain the bidding documents at www.QUESTCDN.com, QuestCDN Project No. 8330059. All pre-Bid questions and responses will be posted on QuestCDN. A non-mandatory pre-bid conference will be held at 2:00 PM local time November 22nd at Lincoln City Cultural Center. This contract is subject to ORS 279C.800 to 279C.870 regarding prevailing wage rates. Owner reserves the right to reject all bids, and to waive any technicalities or informalities in connection with the bids. No Bidder may withdraw their bid until thirty (30) days after the bid opening. By order of: Lincoln City Cultural Center Published: Newport News Times, Newport, OR Friday November the 4th, and Wednesday the 16th, 2022. DJC, Portland, OR Friday November the 4th, and Wednesday the 16th, 2022. N04, N16 64-16

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

Case No. 22CV31219 WILLIAM J. LUND; and ALSO ALL OTHER PERSONS OR PARTIES UNKNOWN claiming any right, title, claim, estate, lien, or interest in the property described in the Complaint herein. To: ALL OTHER PERSONS OR PARTIES UNKNOWN Explanation of the Complaint and Relief Requested. Plaintiffs seek a money judgment against defendant Lund, for the amounts due on a promissory note and foreclosure of a Trust Deed, which granted Plaintiffs, as beneficiaries by assignment, a security interest in certain real property commonly referred to as NW Spring Street (Bare Lots), Newport, Oregon 97365, and more particularly described as PARCEL I: The North Half of Lot 1, and all of Lots 2, 3, 4, and 5, Block 37, OCEAN VIEW, in Lincoln County, Oregon. TOGETHER WITH that portion of vacated alley contiguous to and Westerly of said

lots as vacated by Ordinance recorded November 21, 1966 in Book 273, Page 17, Lincoln County Records. EXCEPTING THEREFROM any portion of Northwest 14th Street vacated by Ordinance recorded November 21, 1966 in Book 273, Page 17, Lincoln County Records. PARCEL II: Beginning at the Northeast corner of Lot 5, Block 37, OCEANVIEW, as shown on the original plat recorded April 5, 1884 in Plat Book 1, page 19, Lincoln County Records; thence North 60 feet to the Southeast corner of Block 48 of said plat; thence West on the South line of said Block 48 to the mean high tide line of the Pacific Ocean; thence Southerly along said high tide line to the Northwest corner of said Block 37; thence East on the North line thereof to the point of beginning, being the portion of vacated Northwest 14th Street, former Rock Street in said plat, vacated by vacation recorded November 21, 1966 in Book 273, page 17, Deed Records. EXCEPTING THEREFROM that portion of vacated Northwest 14th Street that inured to Block 36, OCEANVIEW, in Lincoln County, Oregon, vacated by Ordinance recorded November 21, 1966 in Book 273, Page 17, Lincoln County Records, in the Complaint (the "Property"). The relief requested may impact the rights and interests of third parties who are presently unknown (the "Unknown Parties"), who are joined in this case pursuant to ORCP 20 J. Because of the possible adverse effect of this lawsuit, notice is being given, and the Unknown Parties are being given the opportunity to appear in the case and present their claims and defenses to the relief requested by Plaintiffs. Plaintiffs seek (1) a money judgment be awarded against Lund in the amount of \$919,304.53, and for additional sums that may be awarded to Plaintiffs, together with post-judgment interest from the date of entry until paid, and (2) a declaration that the lien of Plaintiffs' Trust Deed is prior in time, right, title, and interest to any interest in the Property of Defendants, and forever foreclosing all right, title, lien, claim or interest of Defendants in the Property and declaring any such rights are inferior to Plaintiffs', and foreclosing the lien of the Trust Deed and ordering the sale of the Property by the Sheriff of Lincoln County, in the manner prescribed by law. Plaintiffs are seeking a deficiency judgment against Lund. IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and answer the Complaint filed against

you in the above-entitled case within 30 days from the first date of publication of this summons, and if you fail so to answer, for want thereof, the Plaintiffs will apply to the court for the relief demanded therein. NOTICE TO DEFENDANTS: READ THESE PAPERS CAREFULLY! You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" 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. It must be in proper form and have proof of service on the Plaintiffs' attorney or, if the Plaintiffs do not have an attorney, proof of service on the Plaintiffs. The date of first publication is November 4, 2022. If you have questions, you should see an attorney immediately. If you need help in 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 or toll-free elsewhere in Oregon at 800-452-7636. WATKINSON, LAIRD, RUBENSTEIN, P.C., Of Attorneys for Plaintiffs, Julia I. Manela, OSB No. 023771, Email: jmanela@wrlaw.com, 1203 Willamette Street, Ste 200, PO Box 10567, Eugene, OR 97440, T: 541-484-2277, F: 541-484-2282. Trial Attorney: Connor D. King, OSB No. 193945, Email: cking@wrlaw.com N04, N11, N18, N25 63-25

PUBLIC SALE

The following storage units will be sold at public auction on Saturday, November 19, 2022 at 11:00 AM for non-payment of rent and other fees. Auction is pursuant to Auction Rules and Procedures of Lincoln Storage 4809 S Coast Hwy South Beach, OR 97366 541-867-6550. Rules are available upon inquiry. Unit 358 Krystal Bolden N02, N04, N09, N11 58-11

NOTICE OF ABANDONED PROPERTY

Mobile Home Located at: 724 SW Ferry Ave, Siletz, OR 97380 #30. Manufacturer: Unknown, ID# 162174, X# 77286, M204245, Year: 1973. Owner on record: Carrie Hawkins. If there will be a sale specify whether it will be: No Sale. 1.) If you intend to reside in the home located in Siletz Mobile Home Park you must first qualify as a tenant. 2.) No subleasing. 3.) If you intend to remove the home from the park this must be done within 14 days of bid approval. Contact information:

Dawn Newton (541) 563-6868 O28, N04, N11 56-11

NOTICE OF ABANDONED PROPERTY

Mobile Home Located at: 724 SW Ferry Ave, Siletz, OR, 97380 #55. Manufacturer: Unknown, ID#: 218723, X#151840, M#368775, Year: 1968. Owner on record: Mary Dedrick. If there will be a sale specify whether it will be: Sealed bid, PO Box 696, Waldport, OR 97394. 1.) If you intend to reside in the home located in Siletz Mobile Home Park you must first qualify as a tenant. 2.) No subleasing. 3.) If you intend to remove the home from the park this must be done within 14 days of bid approval. Contact information: Dawn Newton (541) 563-6868 O28, N04, N11 55-11

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a de novo public hearing on Monday, November 14, 2022, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-CUP-22-A, a request submitted by Zachary Dablow, P.C., attorney at law, representative (Ty Hildebrand, K & B Investments, LLC, applicant/property owner), for an appeal of the Community Development Director's decision denying a Conditional Use Permit Application (File No. 2-CUP-22). The appeal challenges the Community Development Director's denial of a request per Section 14.03.070/"Commercial and Industrial Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone for which personal service oriented retail sales and services are a conditional use. The property is located at 316 NW Coast St, Newport, OR 97365 (Lincoln County Assessor's Map 11-11-05-CC; Tax Lot 80001). The applicable criteria per NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings

NOTICE TO INTERESTED PERSONS

NOTICE IS HEREBY GIVEN that GALE HOCKEMA has been appointed as the personal representative of the above estate. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned attorney

and potential buildings allowable as uses permitted outright. The Planning Commission will hold a de novo public hearing on the decision. With a de novo hearing any interested person or entity can provide public testimony, including the introduction of new evidence that was not available at the time the original decision was rendered. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport Comprehensive Plan and its implementing ordinance 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. Testimony may be submitted in written or oral form. Written testimony must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797(6), any person prior to the conclusion of this initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, 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). N04 52-04

LEGAL NOTICE OF BOARD VACANCY

Due to a resignation, a vacancy has been declared for the Subdivision 3 board seat on the Central Lincoln People's Utility District's Board of Directors. This is normally an elected office, but will be a mid-term appointment by the Board of Directors; the current term of which expires December 31, 2024. Eligible candidates, under ORS 261, must be registered voters or capable of being registered voters residing in Subdivision 3: Central Lincoln territory in South Lincoln County and portions of Lane County to wit: Lincoln County Precincts 1-8 which include Waldport, Asea, Seaview, Yachats, Bayview, Seal Rock and South Beach; and Lane County Precincts 701, 703 and 707 which include the area along Highway 101 from the Lincoln County/Lane County border to the Florence City Limits, Swisshome and Mapleton. Candidates may verify they reside within Subdivision 3 by contacting the Lincoln County Clerk's Office. Candidates also must have resided in Central Lincoln's District continuously for two years or more. Candidates, meeting the above requirements and who desire to serve the public as a Central Lincoln board member, are invited to submit letters of interest and/or resumes to fill the vacancy addressed to the Board, and must be submitted electronically to Board Executive Assistant Sunnetta Capovilla at scapovilla@cncoast.com no later than Tuesday, November 10, 2022. Only electronic submissions will be accepted. Candidates must be available to be interviewed on December 14, 2022 in Newport. It is anticipated the candidate selected could be appointed by Central Lincoln's Board of Directors to fill the vacancy effective January 1, 2023. Central Lincoln is a public organization for community service under ORS Chapter 261, and a governmental entity. Central Lincoln's mission is "to ensure our communities have access to reliable and affordable energy products and services." O26, O28, N2, N4, N9 47-09

**CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹**

NOTICE IS HEREBY GIVEN that the City of Newport Planning Commission will hold a *de novo* public hearing to consider an appeal of the Community Development Director's decision denying a conditional use permit application (File No. #2-CUP-22).

File No: # 2-CUP-22-A

Appellant & Property Owner: Zachary Dablow, P.C., attorney at law, representative (Ty Hildebrand, K & B Investments, LLC, applicant/property owner).

Request: Appeal challenging the Community Development Director's denial of a request per Section 14.03.070/"Commercial and Industrial Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone for which personal service oriented retail sales and services are a conditional use.

Location: 316 NW Coast St, Newport, OR 97365 (Lincoln County Assessor's Map 11-11-05-CC; Tax Lot 80001).

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

Testimony: The Planning Commission will hold a *de novo* public hearing on the decision that has been appealed. With a *de novo* hearing, any interested person or entity can provide public testimony, including the introduction of new evidence that was not available at the time the original decision was rendered. Testimony and evidence must be directed toward the criteria described above or other criteria in the Newport 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. Testimony may be submitted in written or oral form. Written testimony must be received by 3:00 p.m. the day of the hearing or be personally entered into the record during the hearing. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797(6), any person prior to the conclusion of this 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: 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, Planning Director, Community Development Department, (541-574-0629) (address above).

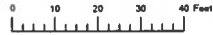
Time/Place of Hearing: Monday, November 14, 2022; 7:00 p.m.; City Hall Council Chambers (address above).

MAILED: October 24, 2022.

PUBLISHED: November 4, 2022/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.

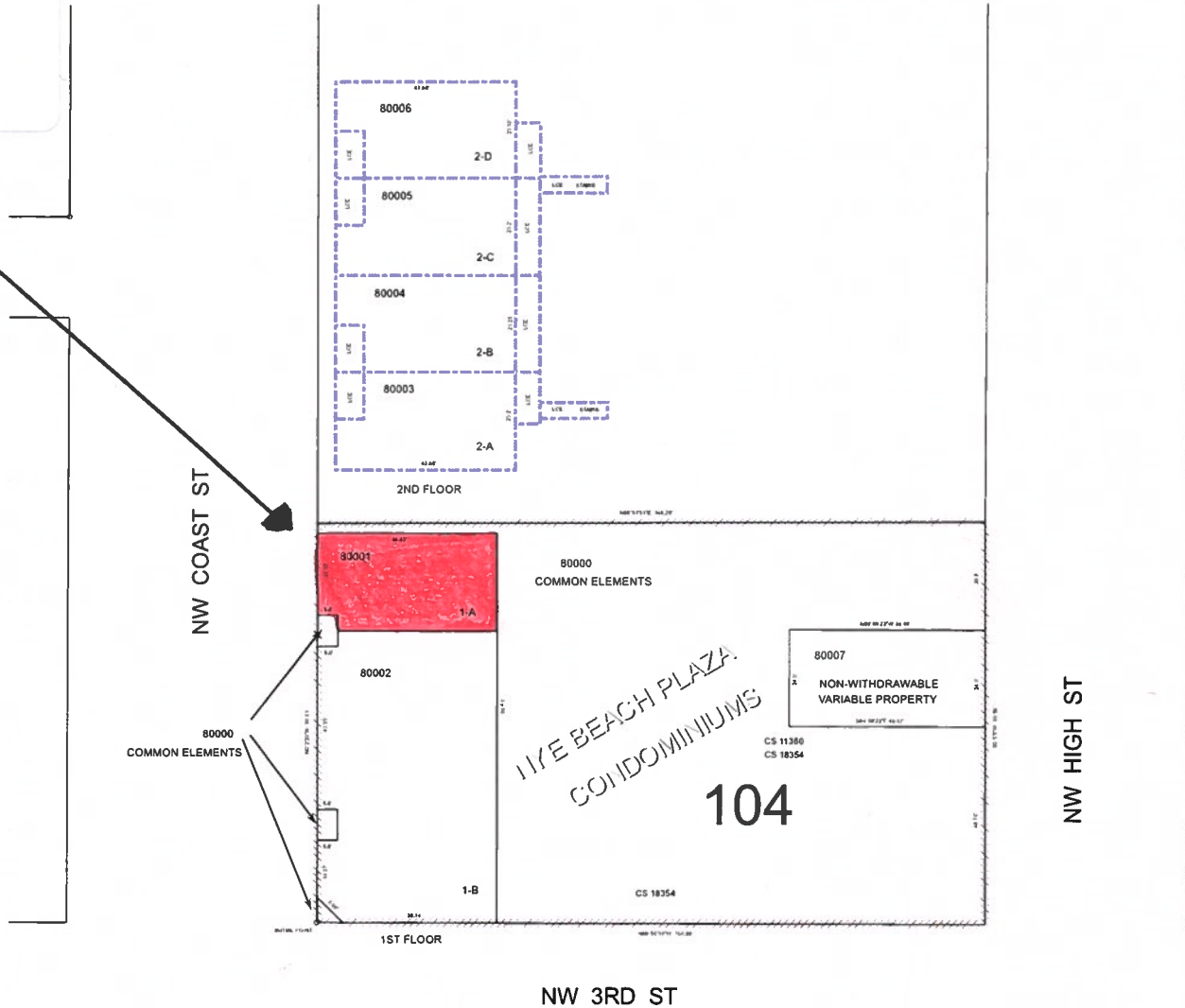
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



SUPPLEMENTAL MAP NO. 2
S.W.1/4 S.W.1/4 SEC.5 T.11S. R.11W. W.M.
LINCOLN COUNTY
1" = 20'

11 11 05 CC
SUPP MAP NO 2
NEWPORT

Subject Property
File No. 2-CUP-22-A



Revised SEB
02/19/2014

NEWPORT
SUPP MAP NO 2
11 11 05 CC

ACKERMAN CAROLYN
310 NW COAST ST
NEWPORT,OR 97365

ARCHWAY PLACE CONDOMINIUM
HOMEOWNERS ASSOCIATION
325 NW COAST ST
NEWPORT,OR 97365

ATTILIO NICHOLAS & ATTILIO JANELLE
14413 W EUGENE TERR
SURPRISE,AZ 85379

BEAN JOSEPH W TRUSTEE & MUNGER
KAREN L TRUSTEE
435 CHESHIRE FARM LN
ST LOUIS,MO 63141

BENNETT STEVEN G & BENNETT
MARLA J
2255 DAWNWOOD DR
PHILOMATH,OR 97370

BRADLEY RAYMOND J
700 LAWRENCE ST
EUGENE,OR 97401

BREADEN BARBARA L & BREADEN
RONALD P
2155 DEVOS ST
EUGENE,OR 97402

BREADEN MATTHEW & BREADEN
RADHIKA
14353 AMBERWOOD CIR
LAKE OSWEGO,OR 97035

BRUSSELBACK LAWRENCE J &
BRUSSELBACK WENDY C
255 NW COAST ST
NEWPORT,OR 97365

CHADWICK DOUGLAS A & CHADWICK
TRACY A
334 NW HIGH ST
NEWPORT,OR 97365

CHAN HOMESTEAD LLC
4402 NW SENECA CT
CAMAS,WA 98607

CHAPMAN LUCINDA
PO BOX 206
NEWPORT,OR 97365

CLAPPER JOAN L
560 SE VERA AVE
CORVALLIS,OR 97333

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

COPPER CUP LLC
613 NW 3RD ST
NEWPORT,OR 97365

D & V PROPERTIES LLC
PO BOX 172
TIDEWATER,OR 97390

DEVRIES JOSEPH CHARLES TTEE &
DEVRIES JEANNIE STASIA TTEE
327 NW HIGH ST
NEWPORT,OR 97365

DITLEFSEN MICHAEL & JENNE JANIE
1055 HIGHLAND AVE NE
SALEM,OR 97301

FOSTER CARL W COTRUSTEE &
FOSTER VICTORIA S COTRUSTEE
477 E FISHING CREEK LN
EAGLE,ID 83616

FRANKLIN ELIZABETH J TSTEE &
FRANKLIN MICHAEL T TSTEE
742 NW BEACH DR
NEWPORT,OR 97365

HERNANDEZ GENARO SANTOS &
HERNANDEZ ROCIO SANTOS
PO BOX 312
NEWPORT,OR 97365

HETH MICHELLE K
1181 RYAN CT
WEST LINN,OR 97068

HOGAN FRANK A & HOGAN JUDY A
TRUSTEES
42 QUIET HILLS RD
POMONA,CA 91766

HUGHES COLLEEN C LVG TRUST &
HUGHES COLLEEN C TRUSTEE
269 LINNAEUS AVE
COOKEVILLE,TN 38501

K&B INVESTMENTS LLC
ATTN: TY HILDEBRAND
2668 CASCADIA INDUSTRIAL ST S
SALEM,OR 97302

KING MARIJO & PRESTEEN SCOTT
408 S 31ST ST
PHILOMATH,OR 97370

KOCHTA EGHILD TSTEE
626 NW 3RD ST
NEWPORT,OR 97365

LAMPSON MITCHELL B
325 NW COAST ST UNIT F
NEWPORT,OR 97365

LEHRMAN RORY A & LEHRMAN
ANGELA M
215 NW HIGH ST
NEWPORT,OR 97365

LINGHAM JUDITH M
PO BOX 28
NEWPORT,OR 97365

**LOVAS STEPHEN E COTTEE & LOVAS
SONJA S COTTEE
PO BOX 2170
NEWPORT,OR 97365**

**MINES GARY L TRUSTEE & MINES VICKI
R TRUSTEE
1218 NE 125TH AVE
VANCOUVER,WA 98684**

**MOORE ROBERT J
210 E FLAMINGO RD UNIT 328
LAS VEGAS,NV 89169**

**MORRONE NATALE F JR
923 SE BAY BLVD
#300A
NEWPORT,OR 97365**

**MSM PROPERTIES LLC
2397 NW KINGS BLVD #173
CORVALLIS,OR 97330**

**NAGY EVELYN D
PO BOX 10412
EUGENE,OR 97440**

**NYE BEACH PLAZA CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
PO BOX 10412
EUGENE,OR 97440**

**NYE PLACE LLC
13999 S CLACKAMAS RIVER DR
OREGON CITY,OR 97045**

**OLD TOWN CONDOMINIUMS
ASSOCIATION OF UNIT OWNERS
501 COLDWATER CRK DR
ROCK SPRINGS,WY 82901**

**SEAVIEW HOMES LLC
193 NW 70TH
NEWPORT,OR 97365**

**SHAYKIN YANTIFF SERGIO J & BATTIGE
AIMEE
1818 SE MULBERRY AVE
PORTLAND,OR 97214**

**SOULAMI TARIK BELHAJ &
PRESISKAWATY NENNY
17300 NE 25TH WAY
REDMOND,WA 98052**

**SRD PROPERTIES LLC
200 SE VIEW CT
NEWPORT,OR 97365**

**WANKER MARK JOSEPH
21373 SW JOHNSON RD
WEST LINN,OR 97068**

**WIEBE MARTHA W TSTEE & WIEBE
DAVID A TSTEE
10205 HELMICK RD
MONMOUTH,OR 97361**

**WOLD RACHEL & WOLD TYRONE
12590 SW GLACIER LILLY CIR
PORTLAND,OR 97223**

**DAVID ADOLF
826 SW LEE ST
NEWPORT,OR 97365**

**ZACHARY DABLOW
494 STATE STREET, SUITE 300D
SALEM, OR 97301**

Wendy Engler

Email: wendy.engler@yahoo.com

Charlotte Boxer

Email: charboxer2@comcast.net

Kristine & Alan Beshire

Email: beshire@charter.net

Exhibit "A"

File 2-CUP-22-A

Adjacent Property Owners Within 200 Ft

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

Email: Bret Estes
DLCD Coastal Services Center
brett.estes@dlcd.oregon.gov

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

Central Lincoln PUD
ATTN: Ty Hillebrand
PO Box 1126
Newport OR 97365

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

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

****EMAIL****
Nye Neighborhood Association
Jan Kaplan
nye.neighbors@gmail.com

Jan Kaplan, NNA President
35 NW High St
Newport OR 97365

Wendy Engler, NNA Secretary
255 NW Coast St. Apt. B
Newport OR 97365

Joseph Lease
Building Official

Rob Murphy
Fire Chief

Aaron Collett
Public Works

Beth Young
Associate Planner

Jason Malloy
Police Chief

Steve Baugher
Interim Finance Director

Laura Kimberly
Library

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Clare Paul
Public Works

Derrick Tokos
Community Development

David Powell
Public Works

Lance Vanderbeck
Airport

EXHIBIT 'A'
(Affected Agencies)

(2-CUP-22-A)

MEMO

City of Newport
Community Development Department



*****Distributed Via Email*****

Date: October 24, 2022

To: Spencer Nebel, City Manager
Clare Paul, Public Works
Aaron Collett, Public Works
David Powell, Public Works
Rob Murphy, Fire
Jason Malloy, Police
Steve Baugher, Finance
Michael Cavanaugh, Parks & Rec.
Laura Kimberly, Library
Lance Vanderbeck, Airport
Beth Young, Associate Planner
Derrick Tokos, Community Development
Joseph Lease, Building Official
Public Utilities

From: Sherri Marineau, Executive Assistant

RE: Conditional Use Permit # 2-CUP-22-A

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

Sherri Marineau

From: Sherri Marineau
Sent: Monday, October 24, 2022 12:14 PM
Subject: NOTICE: Newport Planning Commission Hearing for Conditional Use Permit - 2-CUP-22-A
Attachments: File 2-CUP-22-A Notice.pdf
Importance: High

Good afternoon,

You are receiving this notice because you submitted comments on the notice for the Conditional Use Permit application to allow the operation of a real estate office in a C-2/"Tourist Commercial" zone at 316 NW Coast St in Newport, OR. This request has been denied and an appeal has been submitted by the applicant.

Please see the attached notice concerning the Planning Commission public hearing that will be held on Monday, November 14, 2022 at 7 p.m. to review the appeal.

For further information on the record and public hearing, please contact **Planning Director, Derrick Tokos** 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



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Sherri Marineau

From: Sherri Marineau
Sent: Monday, October 24, 2022 12:15 PM
To: Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Clare Paul; David Powell; Aaron Collett; Lance Vanderbeck; Steve Baugher
Subject: Conditional Use Permit - 2-CUP-22-A
Attachments: File 2-CUP-22-A City Dept & Utilities Notification.pdf; File 2-CUP-22-A Notice.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any 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.**

Sherri Marineau
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

Sherri Marineau

From: Sherri Marineau
Sent: Monday, October 24, 2022 12:15 PM
To: 'odotr2planmgr@odot.state.or.us'; Brett Estes
Cc: 'nye.neighbors@gmail.com'
Subject: Conditional Use Permit - 2-CUP-22-A
Attachments: File 2-CUP-22-A Notice.pdf

Attached is a notice concerning a land use request. The notice contains an explanation of the request, a property description and map, and a date for the public hearing. Please review this information to see if you would like to make any comments. We must receive comments prior to the last day of the comment period in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Sherri Marineau
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov



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Sherri Marineau

From: Sherri Marineau
Sent: Monday, October 24, 2022 12:37 PM
To: 'legals@newportnewstimes.com'; 'Nicole Orr'
Subject: Notice of Public Hearing-Publish on Friday, November 4, 2022 File No. 2-CUP-22-A
Attachments: File 2-CUP-22-A Notice - publish.docx

Nicole,

Here is a Notice of Public Hearing that I need to have published in your **Friday, November 4, 2022** publication. **Please send me a proof of the publication to review.**

Also, let me know if you can accommodate this publication date and if you need anything further.

Thank you!

Sherri Marineau
City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0629, option 2
fax: 541.574.0644
s.marineau@newportoregon.gov



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

AFFIDAVIT OF MAILING OF NOTICE OF LAND USE ACTION

STATE OF OREGON)

)ss.

County of Lincoln)

File No(s). 2-CUP-22-A

I, Sherri Marineau, duly appointed Executive Assistant of the City of Newport, do hereby certify that the notice of a land use action attached hereto and by this reference made a part hereof is a true and complete copy of the original of such notice, and that said original was deposited in the United States mails at Newport, Oregon, with first-class postage thereon prepaid, addressed to each of the persons owning property and entitled to receiving notice, as said persons are named in Exhibit "A", attached hereto and by this reference made a part of hereof, at the last known address of each person as shown by the records of the Lincoln County Assessor at Newport, Oregon, on the *24th* day of *October*, 2022.

Sherri Marineau

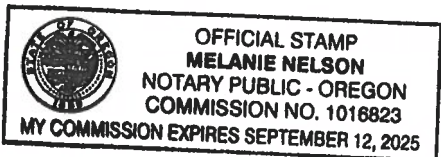
Sherri Marineau
Executive Assistant

SUBSCRIBED AND SWORN to before me this 24 day of October, 2022.

Melanie Nelson

Notary Public of Oregon

My Commission Expires: 9/12/2025



CITY OF NEWPORT

OCT 31 2022

RECEIVED

October 29, 2022

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

RE: Conditional use permit for 316 NW Coast St., Newport, OR

Ladies and Gentlemen of the Newport Planning Commission;

I wish to use this opportunity to voice my support for the subject conditional use permit.

I have long owned property across the street and we are facing a different world than when the Master Plan was adopted. It is getting harder to compete with Amazon and attract retailing tenants. The Mom and Pop shops are diminishing in numbers.

I feel that it is important to remember that it was adopted as a "master plan" which, I assume, means it is open to changes when appropriate.

I am concerned that as things progress, unless some changes are accepted, we will be facing vacancies, empty buildings, and a declining neighborhood. It seems to me that selling real estate out of that location is a reasonable fit for the area.

Thank you for this opportunity to be heard.

Regards,


Gary Mines



City of Newport

Community Development Department

Memorandum

To: Planning Commission
From: Derrick I. Tokos, AICP, Community Development Director 
Date: November 9, 2022
Re: Appeal of Staff Decision Denying a Conditional Use Permit for a Real Estate Office in Nye Beach (File No. 2-CUP-22)

This appeal relates to a Type II conditional use permit application submitted by Ty Hildebrand, with K&B Investments, LLC, to allow a real estate office in an existing 984 square foot commercial space. The property is located at 316 NW Coast Street (Tax Lot 80001 of Assessors Map No. 11-11-05-CC) within a multi-tenant, mixed use commercial building at the northeast corner of NW 3rd and Coast Streets that includes retail/commercial on the main floor and four condominium units on the second floor. The property is within a C-2/"Tourist-Commercial" zone district. The previous tenant at this location was SJ Custom Jewelers.

On September 20, 2022, Community Development Department staff issued a decision denying the application on the grounds that the applicant had not demonstrated that their business model is reliant upon being located within a tourist commercial area (decision enclosed). The applicant's real estate business, Realty One Group at the Beach, operates out of an office at 826 SW Lee Street in the City Center area that is within a C-1/"Retail and Service Commercial" zone. They have been at that location since May of 2019. The presence of this office was noted in the decision as evidence that the business is not reliant upon tourist traffic. The relevant approval standard is NMC 14.34.050(B), which requires that the application comply with any special requirements of the underlying zone or overlay zone. This includes the intent of the C-2 zone district, described in NMC 14.03.040 and listed below.

A real-estate office is a type of personal service-oriented land use. This category of land use was created when the commercial and industrial land use element of the zoning ordinance was restructured in 2011 (Ordinance No. 2022). It is characterized as including the following types of businesses:

Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming.

This category of uses was identified as conditional within the City's C-2/"Tourist Commercial" zone because there is a finite amount of retail space in tourist oriented-areas, and policy makers determined that such space needs to be reserved for complimentary uses. Many personal service-oriented uses do not need to be located in tourist areas, and can just as effectively locate in the City's other commercial or light industrial zones where there are additional lease or ownership opportunities. The conditional use process is the mechanism for reviewing personal service-oriented uses to ensure they complement the tourist oriented nature of the C-2 district.

The intent of the C-2/“Tourist Commercial” zone district is to provide for tourist needs, as well as for the entertainment needs of permanent residents. There are two other real estate offices in the tourist commercial zoned portion of Nye Beach. Oregon Coast Properties, at 415 NW Coast Street was established before the ordinance was restructured in 2011 and is grandfathered. The other is Seashore Homes Realty at 305 NW Coast Street, which was permitted in 2018 with Conditional Use Permit #6-CUP-18 (enclosed). In that decision, which was not appealed, the Community Development Department approved the conditional use permit, finding that the applicant’s business plan focused on the sale of homes to tourists, catering to pedestrians as a way to draw potential clients. Seashore Realty is a boutique real estate brokerage with a single broker who previously worked from his residence. Realty One Group at the Beach has more than a dozen affiliated brokers that, per their website, provide a range of residential and commercial real estate brokerage services. They also have a business office which, as noted, is located outside of a tourist-oriented area. These are distinguishing factors between the two Community Development Department decisions.

Appellant’s appeal was filed within a timely manner (enclosed). Their attorney, Zachary Dablow, P.C., provided a letter, dated October 4, 2022, outlining their grounds for appeal. Mr. Dablow asserts in his letter that the application satisfies the approval criteria, in that it is consistent with the intent of the C-2 zone district, which is to provide for tourist needs, as well as for the entertainment needs of permanent residents. He points to the component of the applicant’s business plan that notes the office will act as a local art gallery, and that special events would be held for the entertainment of the permanent residents and tourist visitors. Mr. Dablow further argues that one of the core functions of a real estate office, to showcase and promote the purchase of available residential units by non-permanent residents, expands tourism by exposing potential buyers to investments that might attract them back to the community, growing the number of visitors that might frequent Nye Beach.

The art gallery and special event elements to the applicant’s business plan were seen by staff as ancillary to the principal real estate use of the property and were not given the same weight as that use. The Commission should consider whether or not these activities are sufficient to establish that the conditional use permit application is consistent with the intent of the zone district. The same is true with respect to appellant’s argument related to advertising real estate, which was raised upon appeal and is therefore not addressed in the staff decision.

Three public comments were received and considered by the Community Development Department before the initial decision was rendered. They were provided by Wendy Engler, Charlotte Boxer, and Kris Beshire, all of whom expressed opposition to the application. This was namely due to the growing concentration of real estate offices in the area, and a concern that they are displacing retail services that attract tourists and others to Nye Beach. After the appeal, a letter was submitted by Gary Mines in support of the conditional use permit application. He noted that economic conditions are changing and that Amazon is making it harder for retailers to compete. He feels that the Commission should be flexible and that a real estate office at this location is a reasonable fit. All of the comments are included in your packet.

The Commission should conduct a public hearing and take testimony regarding the relevant approval criteria. If the Planning Commission finds that the applicant has met the criteria established in the zoning ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the zoning ordinance and the comprehensive plan. If the Commission finds that the request does not comply with the criteria, then it should deny the application.

Attachments: Appeal Application Form, Letter from Appellant’s Attorney, Applicant’s Business Plan, Photos, File #2-CUP-22 - Final Order and Findings, File #6-CUP-18 Final Order and Findings, Public Comment, and Notice of Public Hearing

**BEFORE THE COMMUNITY DEVELOPMENT
(PLANNING) DIRECTOR OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF LAND USE FILE NO. 6-CUP-18)
APPLICATION FOR A CONDITIONAL USE PERMIT, AS) **FINAL**
SUBMITTED BY SEASHORE REALTY COMPANY) **ORDER**
(ROLAND WOODCOCK, AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A CONDITIONAL USE PERMIT pursuant to Section 14.03.070(2)(c) of the Newport Municipal Code (NMC), for utilization of roughly 650 square feet of vacant commercial space within the Archway Place mixed use development as a real estate office. The property is zoned C-2/"Tourist-Commercial," where real estate services are classified as a conditional use (NMC 14.03.060(C)(2)).

WHEREAS:

- 1.) The Community Development (Planning) Director has duly accepted the application, filed consistent with the Newport Zoning Ordinance; and
- 2.) The Community Development (Planning) Director has duly considered the request and has given proper and timely notice to affected property owners; and
- 3.) The Community Development (Planning) Director has allowed for evidence and recommendations from interested persons, Community Development (Planning) Department staff, other City departments, and local utilities; and
- 4.) At the conclusion of review of evidence submitted and after consideration of the request, the Newport Community Development (Planning) Director **APPROVED** the request for said Conditional Use Permit.


THEREFORE LET IT BE RESOLVED by the City of Newport Community Development (Planning) Director that the attached Findings of Fact and Conclusions (Exhibit "A") support the approval of the request for a Conditional Use Permit with the following conditions(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.

- 2. The applicant shall 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 applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use.

BASED UPON THE ABOVE, the Community Development (Planning) Director determines that the request for a Conditional Use permit as submitted in the application is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport with the attached conditions(s) of approval.

Accepted and approved this 23rd day of January 2019.



 Derrick I. Tokos, AICP
 Community Development Director

Attest:



 Sherri Marineau
 Executive Assistant

EXHIBIT "A"

Case File No. 6-CUP-18

FINDINGS OF FACT

1. This request by Seashore Realty Company is for a Conditional Use Permit per Section 14.03.070(2)(c) of the Newport Municipal Code (NMC), in order to utilize 650 square feet of vacant commercial space within the Archway Place mixed use development. The property is zoned C-2/"Tourist-Commercial," where real estate services are classified as a conditional use (NMC 14.03.060(C)(2)).
2. The applicant is Roland Woodcock, representing Seashore Homes Realty. The space is subleased from Guild Mortgage Company. The property owner is Steven W. Mock, MSM Properties, LLC, 2397 NW Kings Blvd#173, Corvallis, Oregon 97333.
3. The application for a conditional use permit was submitted on December 12, 2018 and was deemed complete.
4. The property is located at 305 NW Coast Street. It includes lease unit C-1 (Tax Lot 88001) and a portion of unit C-2 (Tax Lot 88002) on Lincoln County Assessor's Tax Map 11-11-05-CC.
5. The application was accompanied by a completed application form, business plan, written findings, letter of authorization from the property owner, photographs of the tenant space, and a floor plan of the lease space. All of the application materials can be found in the file.
6. The Newport Comprehensive Plan designation for the property is Commercial. The zoning designation is C-2/"Tourist Commercial." Surrounding land uses are a mix of tourist commercial and residential uses.
7. The applicant's business plan notes that the realty company is primarily focused on helping people realize their dream of owning a beach house. They point out that the front entry, an enclosed courtyard area, has been designed to look and feel like a room in a beach house, or an enclosed deck on a beach home. People enter through a wide, glass garage door, similar to those used in restaurants like Newport's Local Ocean. The wide entrance, with a tiled, ADA compatible ramp, is flanked on both sides by planter boxes with beach grass. The area is furnished with Adirondack chairs, a coffee table and area rug, beach décor – and touch screen computers, where people can search for oceanfront and oceanview property at their leisure. The applicant indicates that they believe many tourists who are not shopping for a beach home – at least not now – will take advantage of this just for the enjoyment of viewing and dreaming about beach homes. Although it is not fully equipped yet, tourist and locals already drop in regularly, all of whom have been very enthusiastic about this "dream room," both the décor and concept. The applicant notes that those who decide they would like to talk with a broker can enter the office area, separated from the front room by a glass wall, through a normal office door. The office itself is "beachy" feeling, with a grey, "weathered" wood floor, a "wave" wall paneled to look like ocean waves, and a continuation of the beach décor and plantings in the front room. The idea behind the look-and-feel of the Seashore Homes office was to move the perception and experience of "real estate brokerage" toward the concept of a charming beach village like Nye Beach.

8. A Property Report from the Lincoln County Assessor's Office notes that this commercial lease space within the Archway Place development was constructed in 2007. No changes are proposed to the building façade. Access to the space has been improved to meet ADA requirements. All other improvements are to the interior of the building.
9. The following are past land use actions involving the subject property:
 - A. File No. 2-CUP-06/2-NB-06 – approved the “Archway Place” mixed use development, consisting of 5,400 square feet of commercial space on the ground floor and nine townhouse on the second and third floors.
10. The Newport Municipal Code (NMC) Section 14.34.030 allows for a conditional use permit to be processed and authorized using a Type II (staff level) decision-making procedure under the following circumstances:
 - A. The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
 - B. Involves a piece(s) of property that is less than one (1) acre in size.
11. Upon acceptance of the application, the Community Development Director shall notify property owners within 200 feet of the subject property and affected public/private agencies/utilities. The applicant submitted a list of property owners within the area to be notified as part of the application request. Said notice was mailed on December 13, 2018. (Copy of the notice is in the file.) The notice contained the criteria by which the conditional use permit is to be assessed. Affected parties were given until December 27, 2018, in which to make comment on the application.
12. One comment was received in response to the public notice, an email from Wendy Engler, dated December 27, 2018, requesting a public hearing on the application. Ms. Engler stated that the request for a hearing stems from the fact that one of the businesses has already been operating and the other appears to have a building permit and has already made a significant investment in remodeling the space for the proposed business. She further noted that requesting input from neighboring properties on businesses that already appear to be approved and are moving forward puts everyone in an awkward and unfortunate position. Ms. Engler also conveyed to staff verbally that lease area C-1 was supposed to be a public courtyard, which is not how it is presently constructed.
13. The criteria for the Conditional Use Permit pursuant to NMC Section 14.34.050 are:
 - A. The public facilities can adequately accommodate the proposed use.
 - B. The request complies with the requirements of the underlying zone or overlay zone.
 - C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.

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

CONCLUSIONS

1. NMC Section 14.34.030/ "Approval Authority," states that a request qualifies as a Type II decision if a proposed use generates less than 50 additional trips per day and the subject property is less than an acre. The applicant's floor plan and narrative indicate that a little over 600 square feet of space will be used. The space was originally designed for specialty retail use, an Institute of Traffic Engineers trip generation category that encompasses sales and personal service retail uses (Ref: ITE Category 814). The leasable area is not being expanded; therefore, no additional vehicle trips per day will be generated as a result of the new tenancy. According to the Assessor's Map, the subject property is well under an acre in size. Given the above, the request complies with the criteria to qualify for a Type II decision-making process by the Community Development Director. A Type II decision-making process is one where the initial decision is made by the Director with public notice and an opportunity to comment but without a hearing (NMC 14.52.020(B)); therefore, Ms. Engler's request for a hearing cannot be granted.
2. With regards to the criteria for approval of a Conditional Use Permit listed under NMC 14.34.050, the following conclusions can be drawn:
 - A. *The public facilities can adequately accommodate the proposed use.*
 - i. Public facilities are defined in the Municipal Code as including sanitary sewer, water, streets and electricity. The applicant's findings indicate that the public facilities can adequately accommodate the proposed use.
 - ii. The applicant asserts that there will be a minimum impact on public facilities. They point out that the office is a small (just over 600 sq. ft.), boutique brokerage catering to the specialized market of people looking to purchase a beach home. Additional foot and motor traffic generated will be no more than other retail establishments.
 - iii. Water service is available via an 8-inch line in NW Coast Street. Sewer service is provided via a 12-inch main in the same street. Electric service is available at the site.
 - iv. The Archway Place mixed-use development abuts NW Coast, NW Beach, and NW 3rd Streets. These paved roadways are fully developed with sidewalks and marked crosswalks. This street section has been scaled to slow vehicle speeds and promote pedestrian movement, which complements storefront access. Structured storm drainage infrastructure is in place to collect the runoff from the property and street, with the drainage ultimately being discharged into the ocean.
 - v. Based on the above, the Community Development Director finds that the applicant has met their burden of demonstrating that this criterion is met in regard to the adequacy of the public facilities.

B. *The request complies with any special requirements of the underlying zone or overlay zone.*

i. The underlying zone for the property is C-2/"Tourist Commercial." Personal service-oriented businesses are a conditional use in this district. The site is also within the Historic Nye Beach Design Review District.

ii. A personal service-oriented land use category was created when the commercial and industrial land use element of the zoning ordinance was restructured in 2011 (Ordinance No. 2022). This use category is characterized as including the following types of businesses:

"Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming."

This category of uses was identified as conditional within the city's C-2/"Tourist Commercial" zone because there is a finite amount of retail space in tourist oriented areas, and policy makers determined that such space needs to be reserved for complimentary uses. Many personal-service uses do not need to be located in tourist areas, and can just as effectively locate in the City's other commercial or light industrial zones where there are additional lease or ownership opportunities. The conditional use process is the mechanism for reviewing personal-service uses to ensure they complement the tourist oriented nature of the C-2 district.

iii. The applicant believes the brokerage will directly address the fundamental requirement of C-2 zoning; "to provide for tourist needs as well as for the entertainment needs of permanent residents." They point out that tourists visiting Newport dream of a beach home, and many also end up walking around Nye Beach. Some are here to determine if this is the right area for them to buy a beach home. Some are here to begin the buying process in earnest. There is no better, or more entertaining place to do this, than Nye Beach. The applicant conveys that they learned this first-hand while working at Oregon Coast Properties, another real estate brokerage in Nye Beach. Tourists would drop in, some to just chat about the area and get an introduction to properties and pricing, and some to seriously begin a search for a beach home. Dreaming of beach homes, looking at beach homes, and talking to a broker about a possible purchase, are all part of the vacation experience for many of Newport's tourists. The applicant notes that he and his wife bought their home in Newport twenty years ago, and it began in just this way-an anniversary visit to the beach, dreaming about a beach home and visiting a local real estate brokerage, then driving by a home that, to their great surprise and totally unplanned, they ended up buying!

iv. Considering that the applicant's business plan focuses on the sale of homes to tourists, catering to pedestrians as a way of drawing in potential clients, it is understandable that the real estate business would need to locate in a tourist commercial area. This is the type of complimentary relationship that policy makers understood would make some personal-service uses appropriate in a C-2 district. Such an argument would be difficult to make for other types of personal-service uses, such as a veterinarian clinic or tax preparing service, that lack a connection to tourism.

v. The Historic Nye Beach Design Review District includes architectural standards for new development. Its provisions apply to the exterior of buildings and trigger when new development or substantial improvements are proposed to commercial structures (NMC 14.30.030(B)). Minor changes have been made to entrance of the lease space, including ADA improvements; however, they fall far short of qualifying as a "substantial improvement" to the Archway Place mixed use building. The term "substantial improvement" is defined as an improvement with a cost that is equal to or exceeds 50% of the market value of the building. The bulk of the changes are tenant improvements to the interior of the building, which are not subject to design review.

vi. Ms. Engler expressed a concern to city staff that a portion of unit C-1 was to be a public courtyard. The Archway Place mixed use development was the subject of a public hearings process with the final decision being made, on appeal, by the Newport City Council (File 2-CUP-06/2-NB-06, Final Order dated June 19, 2006). The record shows that detailed elevation drawings and a three dimensional model of the project were provided to the Council. A public courtyard was not a part of the concept. The Council did; however, include a condition of approval allowing the applicant to modify the design to improve the visual appearance of the portion of the project facing NW 3rd Street, which includes the unit C-1 lease space at the corner of NW 3rd and NW Coast.

vii. The City Council decision was appealed to the Land Use Board of Appeals (LUBA), an action that was later withdrawn (LUBA File 2006-126). A letter to the Council, Commission, and city staff from the appellant Raymond Bradley, dated August 15, 2006, indicates that the developer and concerned citizens had negotiated a change to the design that incorporated an open courtyard at the corner of NW 3rd and Coast, which is now a portion of the space leased by the applicant. An illustration of the change was included with the letter. Further, the letter notes that Ms. Engler was involved in those negotiations and it is dated two weeks after the LUBA appeal was dismissed.

viii. Approved building plans, dated February 13, 2007, do not show an open courtyard at the corner of NW 3rd and NW Coast. Instead they show the space enclosed and identify it as a commercial tenant court. This is the front entry area the applicant has designed to look and feel like a room in a beach house. Emails between the developer, Mr. Bradley, and Lon Brusselback (Ms. Engler's husband) demonstrate that the parties were engaged in design discussions as the

final plans were prepared for the Archway Place building, with the developer making revisions in response to their feedback, adding decks and modifying the roofline. City staff sought confirmation that the developer and appellants had worked through the design issues and, in a March 13, 2007, Mr. Bradley stated *“I have reviewed your most recent drawings and they appear to be in the spirit of what we had previously agreed to when you agreed to make certain modifications and I agreed to dismiss my LUBA appeal.”*

ix. Plans for the Archway Place mixed use development, approved by the City Council, show the building enclosed, without a courtyard at the intersection of NW 3rd and NW Coast. This is the final city land use decision and the approved building plans are consistent with that decision. While the Council imposed a condition of approval that allowed some modifications to the design, its decision did not require that such changes occur. The developer and appellants engaged in discussions to modify the design of the project, conversations that at one point included an open publicly accessible courtyard on land that is now leased by the applicant. It is unclear why that design change was not pursued and others, such as the addition of decks and modifications to the roofline, were implemented. What is clear from the record is that the appellants and developer were engaged in constructive dialogue as the design was finalized, with the chief appellant signing off on the final documents. Further, it is evident from the record that the commercial space leased by the applicant is configured in a manner consistent with the City Council decision approving the project.

x. Based on the above, the Community Development Director finds that this criterion has been satisfied.

C. *The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. For the purpose of this criterion, “adverse impact” is the potential adverse physical impact of a proposed conditional use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.*

i. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

ii. The applicant contends that Seashore Homes Realty will have no negative environmental impact on nearby properties. It will be an enhancement of those properties by providing a new and additional experience for tourists and locals who visit Nye Beach.

iii. As previously noted, the project will not generate additional vehicle trips to the site, so its impact on traffic is negligible. Further, given the personal-service nature of the use and the fact that it will occur within an enclosed structure, it is unlikely that any nuisance concerns outlined above will be an issue.

iv. To ensure that there are no adverse impacts that could create a nuisance, a condition of approval should be imposed to require the applicant comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood.

v. Based on the above, the Community Development (Planning) Director finds that this criterion has been satisfied.

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

i. The applicant's findings note that the Seashore Homes office is in the existing Archway Place building. It occupies a one-story street-level office. The only exterior modification has been the entry, which has been modified to allow direct entry, including wheelchair entry, from the street. This patio room, at the NW corner of 3rd and Coast, has not been accessible from the street until now.

ii. Further, as discussed in prior findings, the exterior façade of the lease space is consistent with the City Council land use decision and approved building plans.

iii. Based on the above, the Community Development (Planning) Director finds that this criterion has been satisfied.

OVERALL CONCLUSION

The request complies with the criteria established for a Conditional Use Permit and is hereby **APPROVED** with the following condition(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to this report. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations of approval described herein.
2. The applicant shall 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 applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use.

November 14, 2022

City of Newport
Planning Commission ("Commission")
Via Submission to Staff by Email: d.tokos@newportoregon.gov

**RE: File No. 2-CUP-22
Analysis and Written Testimony in Support of Conditional Use Approval**

Dear Sirs/Madams of the Planning Commission:

I represent the applicant, in the above referenced matter. I provide the below stated points and analysis in support of the applicant's appeal of the denial of conditional use for the siting of a personal services office for the provision of real estate services in the Nye Beach district.

Attached as Exhibit 1 are the original application materials. By way of background, the applicant was seeking a conditional use permit due to the zoning at the planned development site, given that the site is a C-2/Tourist Commercial zone district, as outlined in the staff memorandum.

The staff memorandum lays out some history of the zone district, and outlines that two other real estate services business are currently located in the zone district. The first, grandfathered in before the creation of the district, the second, approved based on the concept that the real estate services were directly targeted to tourists. The staff went on to outline that the business plan provided by the current applicant has some special events, but that the department evaluated those as more ancillary, and were not weighted as heavily.

Having reviewed the staff memorandum submitted to the Commission, I also attached Exhibit 2, exemplars of the events, at all Realty One locations, that regularly make up part of Realty One's business plan. These events, are in fact entertainment, both for the residents, and for tourists. Said another way, the Commission should view the business plan attachment of the staff; and the exemplars of what these events can look like in Exhibit 2, and; in the humble view of the applicant, find that the applicant's business plan is more analogous to the focus of tourist pedestrian traffic that was approved previously. These events frequently have been organized around tourist heavy periods, such as Memorial Day, demonstrating their efforts to specifically serve tourists through the business plan.

Respectfully, the prior approved conditional use permit for Seashore realty was approved, seemingly solely on the basis that real estate services could be geared for tourism, without an entertainment component to that business plan. The current applicant's business plan has all of those more updated notions of real estate sales being in the interest of tourism, but also adds an express entertainment component to the use of space, that more closely aligns with the goals of the zone district, in providing entertainment options to the tourists and residents of the community.

While the applicant does have another location for a business office, the current site was selected by the applicant in part for how well the target customers of tourists could better dovetail with the entertainment component of the applicant's business plan. The size of the applicant should not deter the Commission from evaluating the specific connection between the entertainment options

November 14, 2022
Page 2

offered by the applicant, and how it is uniquely tailored to serve, at least as well as other real estate services providers, the goals of the zone district.

The applicant thanks the Commission for considering the conditional use approval.

Sincerely,

s/ Zachary Dablow

Zachary Dablow

nrb

Enclosures

cc: Realty One

APPLICATION SUBMITTAL REQUIREMENTS

Conditional Use (Staff Level Type II decision-making process)

The following information must be submitted with a City of Newport Land Use application for Conditional Use:

1. Site plan, drawn to scale, showing the dimensions and arrangement of the proposed development on the applicant's lot.
2. Building elevations (if the building is existing, photographs documenting the building elevations are sufficient if no exterior changes are proposed).
3. A Sign plan (if applicable).
4. A current 18" x 24" Lincoln County Assessor's tax map(s) showing the subject property and the notification area. The notification area is all properties within 200 feet of the subject property. (*Lincoln County Assessor's office is located in the Lincoln County Courthouse at 225 W Olive St, Newport*)
5. A list of names and addresses of property owners, as shown in the records of the Lincoln County Assessor, within the notification area described in #4 above.
6. For commercial activities that are conditional, a proposed plan of business operation.
7. Written findings of fact addressing the following criteria:
 - (a) That the public facilities can adequately accommodate the proposed use.
 - (b) That the request complies with the requirements of the underlying zone or overlay zone.
 - (c) That the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. (For purpose of this criterion, "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.)
 - (d) If the application is for a proposed building or building modification, that it is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.
8. A written statement describing the nature of the request.
9. Fee of \$728.00.



City of Newport Land Use Application

Applicant Name(s):	Property Owner Name(s) <i>if other than applicant</i>
Ty Hildebrand	Ty Hildebrand
Applicant Mailing Address:	Property Owner Mailing Address:
2668 Cascadia Industrial St S Salem OR Same	
Applicant Phone No.	Property Owner Phone No.
503-881-2313	503-881-2313
Applicant Email	Property Owner Email
ty@rogwv.com	ty@rogwv.com
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicant's behalf</i>	
David Adolf	
Authorized Representative Mailing Address:	
826 SW Lee St Newport OR 97365	
Authorized Representative Telephone No.	
509-981-8685	
Authorized Representative Email. oregoncoastdave@gmail.com	

Project Information

Property Location: <i>Street name if address # not assigned</i>	
316 NW Coast St Newport OR 97365	
Tax Assessor's Map No.: 111105CC8000100	Tax Lot(s):
Zone Designation: C-2	Legal Description: <i>Add additional sheets if necessary</i>
Comp. Plan Designation:	
Brief description of Land Use Request(s):	
<i>Examples:</i>	
<ol style="list-style-type: none"> 1. <i>Move north property line 5 feet south</i> 2. <i>Variance of 2 feet from the required 15-foot front yard setback</i> 	Real Estate Office
Existing Structures: if any	
Topography and Vegetation:	

Application Type (please check all that apply)

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

File No. Assigned:		
Date Received:	Fee Amount:	Date Accepted as Complete:
Received By:	Receipt No.	Accepted By:

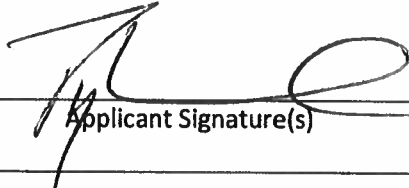
City Hall
 169, SW Coast Hwy
 Newport, OR 97365
 541.574.0629



City of Newport Land Use Application

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

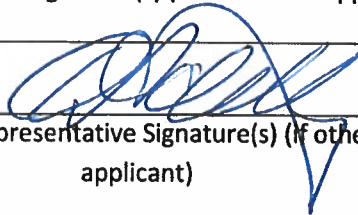
I certify that, to the best of my knowledge, all information provided in this application is accurate.


Applicant Signature(s)

8/1/22
Date

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

Date

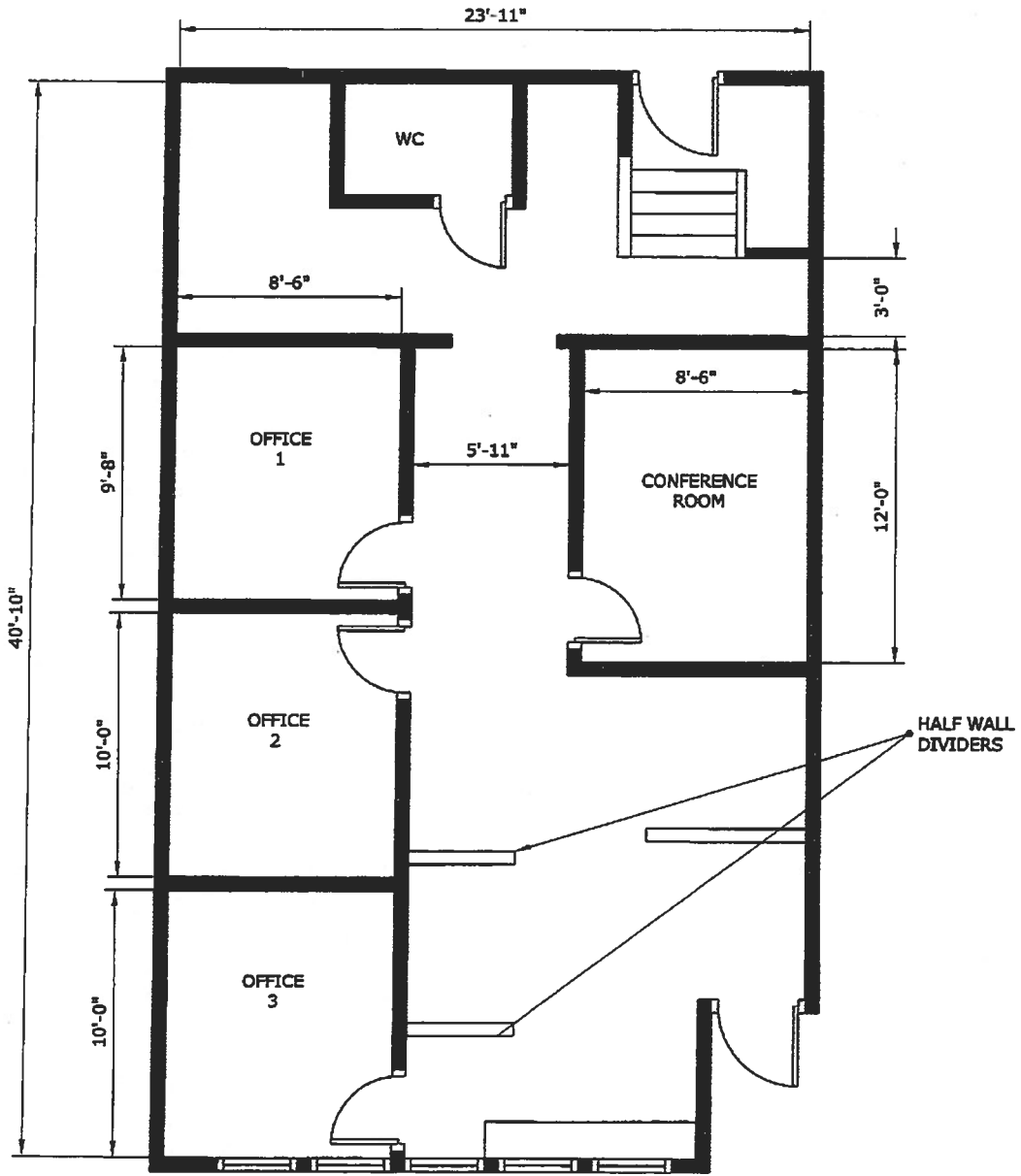

Authorized representative Signature(s) (if other than applicant)

8/4/22
Date

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

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

HILDEBRAND-NYE BEACH CONCEPT FLOOR LAYOUT





316

314


Front



Side



REAR



Salem Sign Co., Inc.
1435 FRONT ST. N.E.
SALEM, OR 97301
503-371-6362
CCB # 65297

SPECIFICATIONS

MATERIAL:
Polymetal


VINYL:
3M Gold Nugget
3M Matte Black

SCALE: 1" = 1'-0"

THIS DRAWING IS THE PROPERTY OF SALEM SIGN CO., INC.

Non-Illuminated Wall Display

SIDE VIEW

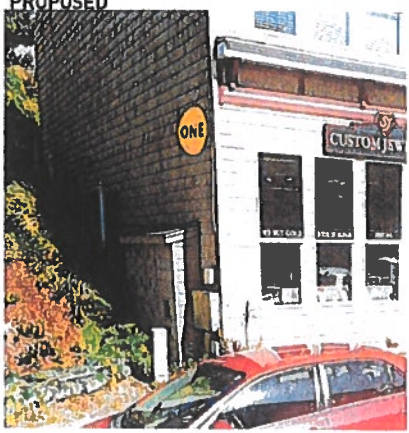


2'-0"

1/8" Thick Polymetal

WALL

PROPOSED



*Sign shown at approximate size & scale.

SK# 27857-22


JOB TITLE: Realty One at the Beach

LOCATION: Newport, OR

DATE: 7/1/2022

DRAWN BY: M.B. SALES

APPROVED BY: Corey Spady



Salem Sign Co., Inc.
1835 FRONT ST. N.E.
SALADOR 97101
503-371-6362
CE# 85397

SPECIFICATIONS


CABINET:
Custom
Fabricated
Aluminum;
painted black

LETTERS:
1/2" Thick
Push Thru
Acrylic; white

VINYL:
3M Gold Nugget
(230-141)

ILLUMINATION:
White LED

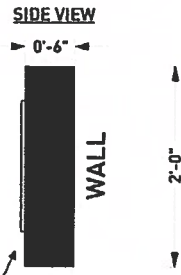
SCALE: 1" = 1'-0"



THIS DRAWING IS THE PROPERTY
OF SALEM SIGNS, INC.

Illuminated Wall Display

SIDE VIEW





0'-6"

2'-0"

WALL

1/2" Thick Push Thru
Acrylic Letters/Logo






6'-4"

2'-0"

**VERIFY SIGN AREA
& ELECTRICAL**

PROPOSED



*Sign shown at approximate size & scale.

SK# 27854-22

JOB TITLE: Realty One at the Beach

LOCATION: Newport, OR

DATE: 7/1/2022

DRAWN BY: M.B. GALE'S

CERAY Spady

APPROVED BY:

75 EXHIBIT 1 - Page 9 of 12

ParcelID	Situs Address	Owner	Address1	Address2	Address3	CityStateZip
11-11-05-CC-09200-00	728 NW BEACH DR	FRANKLIN ELIZABETH J	742 NW BEACH DR			NEWPORT, OR 97365
11-11-05-CC-09300-00		HERNANDEZ GENARO SANTOS &	HERNANDEZ ROCIO SANTOS	PO BOX 312		NEWPORT, OR 97365
11-11-05-CC-09400-00	716 NW BEACH DR	CHAPMAN LUCINDA	PO BOX 206			NEWPORT, OR 97365
11-11-05-CC-09402-00	881 NW BEACH DR	CHAPMAN LUCINDA	PO BOX 206			NEWPORT, OR 97365
11-11-05-CC-09403-00	861 NW BEACH DR	CHAPMAN LUCINDA	PO BOX 206			NEWPORT, OR 97365
11-11-05-CC-09500-00	722 NW BEACH DR	HERNANDEZ GENARO SANTOS &	HERNANDEZ ROCIO SANTOS	PO BOX 312		NEWPORT, OR 97365
11-11-05-CC-09800-00		D & V PROPERTIES LLC	PO BOX 172			TIDEWATER, OR 97390
11-11-05-CC-10700-00	730 NW 3RD ST	COPELY C SIMONE	2000 NE 84TH AVE			PORTLAND, OR 97220
11-11-05-CC-10800-00	722 NW 3RD ST	BRADLEY RAYMOND J	700 LAWRENCE ST			EUGENE, OR 97401
11-11-05-CC-11300-00	327 NW HIGH ST	DEVRIES JOSEPH &	DEVRIES JEANNIE	328 NW HIGH ST		NEWPORT, OR 97365
11-11-05-CC-11400-00	335 NW HIGH ST	LINGHAM JUDITH M	PO BOX 28			NEWPORT, OR 97365
11-11-05-CC-11500-00	408 NW COAST ST	SHAYKIN YANTIFF SERGIO J &	BATTIGE AIMEE	1818 SE MULBERRY AVE		PORTLAND, OR 97214
11-11-05-CC-11600-00	407 NW HIGH ST	SHAYKIN YANTIFF SERGIO J &	BATTIGE AIMEE	1818 SE MULBERRY AVE		PORTLAND, OR 97214
11-11-05-CC-11700-00		SEAVIEW HOMES LLC	193 NW 70TH			NEWPORT, OR 97365
11-11-05-CC-12700-00	419 NW HIGH ST	LOVAS STEPHEN E COTTEE &	LOVAS SONJA S COTTEE	PO BOX 2170		NEWPORT, OR 97365
11-11-05-CC-12800-00	335 NW HIGH ST	LINGHAM JUDITH M	PO BOX 28			NEWPORT, OR 97365
11-11-05-CC-13000-00	582 NW 3RD ST	WOLD RACHEL &	WOLD TYRONE	12590 SW GLACIER LILLY CIR		PORTLAND, OR 97223
11-11-05-CC-13200-00	326 NW HIGH ST	WANKER MARK JOSEPH	21373 SW JOHNSON RD			WEST LINN, OR 97068
11-11-05-CC-13300-00	334 NW HIGH ST	CHADWICK DOUGLAS ALAN	334 NW HIGH ST			NEWPORT, OR 97365
11-11-05-CC-13400-00	406 NW HIGH ST	DITLEFSEN MICHAEL &	JENNE JANIE	1055 HIGHLAND AVE NE		SALEM, OR 97301
11-11-05-CC-70000-00	411 NW COAST ST	OLD TOWN CONDOMINIUMS	ASSOCIATION OF UNIT OWNERS	501 COLDWATER CRK DR		ROCK SPRINGS, WY 82901
11-11-05-CC-70001-00	708 NW BEACH DR	MINES GARY L TRUSTEE &	MINES VICKI R TRUSTEE	1218 NE 125TH AVE		VANCOUVER, WA 98684
11-11-05-CC-70002-00	704 NW BEACH DR	MORRONE NATALE F JR	923 SE BAY BLVD	#300A		NEWPORT, OR 97365
11-11-05-CC-70003-00	411 NW COAST ST	SRD PROPERTIES LLC	200 SE VIEW CT			NEWPORT, OR 97365
11-11-05-CC-70004-00	869 NW BEACH DR	MOORE ROBERT J	210 E FLAMINGO RD UNIT 328			LAS VEGAS, NV 89169
11-11-05-CC-70005-00	873 NW BEACH DR	CHAN HOMESTEAD LLC	ATTN DAVID K CHAN &	LEANN CHENG	4402 NW SENECA CT	CAMAS, WA 98607
11-11-05-CC-70006-00	875 NW BEACH DR	CLAPPER JOAN L	560 SE VERA AVE			CORVALLIS, OR 97333
11-11-05-CC-80000-00		NYE BEACH PLAZA CONDOMINIUMS	ASSOCIATION OF UNIT OWNERS	ATTN EVELYN NAGY	PO BOX 10412	EUGENE, OR 97440
11-11-05-CC-80001-00	316 NW COAST ST	K&B INVESTMENTS	3603 BURNING TREE DR S			SALEM, OR 97302
11-11-05-CC-80002-00	312 NW COAST ST	ACKERMAN CAROLYN	310 NW COAST ST			NEWPORT, OR 97365
11-11-05-CC-80003-00	622 NW 3RD ST	ATTILIO NICHOLAS &	ATTILIO JANELLE	14413 W EUGENE TERR		SURPRISE, AZ 85379
11-11-05-CC-80004-00	624 NW 3RD ST	HUGHES COLLEEN C LVG TRUST &	HUGHES COLLEEN C TRUSTEE	269 LINNAEUS AVE		COOKEVILLE, TN 38501
11-11-05-CC-80005-00	626 NW 3RD ST	KOCHTA EGHILD TSTEE	626 NW 3RD ST			NEWPORT, OR 97365
11-11-05-CC-80006-00	628 NW 3RD ST	NAGY EVELYN D	PO BOX 10412			EUGENE, OR 97440
11-11-05-CC-80007-00		NYE BEACH PLAZA CONDOMINIUMS	ASSOCIATION OF UNIT OWNERS	ATTN EVELYN NAGY	PO BOX 10412	EUGENE, OR 97440
11-11-05-CC-88000-00		ARCHWAY PLACE CONDOMINIUM	HOMEOWNERS ASSOCIATION	PO BOX 800		SOUTH BEACH, OR 97366
11-11-05-CC-88001-00	305 NW COAST ST, UNIT C-1	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88002-00	305 NW COAST ST, UNIT C-2	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88003-00	315 NW COAST ST, UNIT C-3	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88004-00	315 NW COAST ST, UNIT C-4	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88005-00	701 NW BEACH DR, UNIT C-5	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88006-00	701 NW BEACH DR, UNIT C-6	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88007-00	701 NW BEACH DR, UNIT C-7	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88008-00	715 NW BEACH DR, UNIT C-8	MSM PROPERTIES LLC	ATTN STEVEN W MOCK	2397 NW KINGS BLVD #173		CORVALLIS, OR 97330
11-11-05-CC-88009-00	325 NW COAST ST, UNIT A	KING MARIO &	PRESTEEN SCOTT	408 S 31ST ST		PHILOMATH, OR 97370
11-11-05-CC-88010-00	325 NW COAST ST, UNIT B	HOGAN FRANK A &	HOGAN JUDY A TRUSTEES	42 QUIET HILLS RD		POMONA, CA 91766
11-11-05-CC-88011-00	325 NW COAST ST, UNIT C	WIEBE MARTHA W TSTEE &	WIEBE DAVID A TSTEE	10205 HELMICK RD		MONMOUTH, OR 97361
11-11-05-CC-88012-00	325 NW COAST ST, UNIT D	BREADEN BARBARA L &	BREADEN RONALD P	2155 DEVOS ST		EUGENE, OR 97402
11-11-05-CC-88013-00	325 NW COAST ST, UNIT E	BENNETT STEVEN G &	BENNETT MARLA J	2255 DAWNWOOD DR		PHILOMATH, OR 97370
11-11-05-CC-88014-00	325 NW COAST ST, UNIT F	LAMPSON MITCHELL B	325 NW COAST ST UNIT F			NEWPORT, OR 97365

11-11-05-CC-88015-00	325 NW COAST ST, UNIT G	SOULAMI TARIK BELHAJ &	PRESISKAWATY NENNY	17300 NE 25TH WAY		REDMOND, WA 98052
11-11-05-CC-88016-00	325 NW COAST ST, UNIT H	BREADEN MATTHEW &	BREADEN RADHIKA	14353 AMBERWOOD CIRC		LAKE OSWEGO, OR 97035
11-11-05-CC-88017-00	325 NW COAST ST, UNIT I	BEAN JOSEPH W TRUSTEE &	MUNGER KAREN L TRUSTEE	435 CHESHIRE FARM LN		ST LOUIS, MO 63141
11-11-08-BB-05300-00	581 NW 3RD ST	FOSTER CARL W COTRUSTEE &	FOSTER VICTORIA S COTRUSTEE	604 EAST 25TH ST		VANCOUVER, WA 98663
11-11-08-BB-05400-00	613 NW 3RD ST	COOPER CUP LLC	613 NW 3RD ST			NEWPORT, OR 97365
11-11-08-BB-05500-00	258 NW COAST ST	HETH MICHELLE K	1181 RYAN CT			WEST LINN, OR 97068
11-11-08-BB-05600-00	215 NW HIGH ST	LEHRMAN RORY A &	LEHRMAN ANGELA M	215 NW HIGH ST		NEWPORT, OR 97365
11-11-08-BB-11000-00	255 NW COAST ST	BRUSSELBACK LAWRENCE J &	BRUSSELBACK WENDY C	255 NW COAST ST		NEWPORT, OR 97365
11-11-08-BB-11100-00		BRUSSELBACK LON &	BRUSSELBACK WENDY	255 NW COAST ST		NEWPORT, OR 97365
11-11-08-BB-11200-00	715 NW 3RD ST	NYE PLACE LLC	13999 S CLACKAMAS RIVER DR			OREGON CITY, OR 97045



City of Newport
169 SW Coast Hwy
Newport, OR 97365
Date 8/4/2022

RE: Conditional Use Application Submittal Requirements

Dear Recipient,

Questions:

- #6**
- a. Our plan is to operate a real estate office out of the building. The office will serve our real estate professionals and their clients.
- #7**
- a. The public facilities will adequately accommodate real estate professionals, clients and vendors.
 - b. The Real Estate office complies with current zoning.
 - c. The office will not have any adverse impact on the surrounding community. We have parking available behind the building. This is a very small real estate office that will not be full at any given time.
 - d. There will be no change to the exterior of the building. We will be updating the space to a professional office.
- #8**
- a. We are wanting to open a real estate office. We currently have 5 offices, 2 on the coast and 3 in the valley. Our offices are very professional and we believe will add to the already great NYE beach community.

Sincerely,

Ty Hildebrand

Owner, Realty ONE Group At the Beach and Willamette Valley
ty@rogwv.com | 503-881-2313 | www.ROGWV.com | www.ROGATB.com

Realty ONE Group At the Beach
826 Lee SW St
Newport OR 97365

OUTDOOR DROP-SITE LOCATIONS

Advantage Real Estate
205 E Olive St,
Newport, OR 97365

Martek Real Estate
567 N Coast Hwy 101,
Newport, OR 97365

Realty ONE Group at the Beach
826 SW Lee St,
Newport, OR. 97365

Fire & Rescue Newport
245 NW 10th St,
Newport, OR 97365

The Eagles
737 SW 32nd St,
Lincoln City, OR 97367

The Lutheran Church
1226 SW 13th St,
Lincoln City, OR 97367

Fire & Rescue Lincoln City
2525 NW Hwy 101
Lincoln City, OR 97367



Lincoln County Board of Realtors

TOY DRIVE

12/08/2021 - 12/17/2021



**Happening
Now Through
December
17th!**

**Accepting new, unwrapped Toys & Gift
Certificates for Lincoln County youth! Donations
will be given to our local Salvation Army to be
distributed throughout our County to qualifying
children and families!**



ONE REALTY **ONE** GROUP ¹¹⁶
 AT THE BEACH

**Come Join Us For Another
 Fun Night Out!**

Thursday October 7th

5:30 p.m.-7:30 p.m.

240 SE Hwy 101

Lincoln City, OR 97367

Local Artisans:

Vinyl Night!



Headstand Photography

By Jon Monroe

Catering Provided By:

Side Door Cafe

DOOR

PRIZES!!!!



If you would like to participate
 as an

Artisan, Musician or Caterer

Give Us Call



**Bring Your
 Favorite
 Vinyl And
 We Will DJ!**



ONE REALTY **ONE** GROUP¹¹⁷
AT THE BEACH

**Come Join Us For Another Fun
Night Out!**

Thursday August 5th

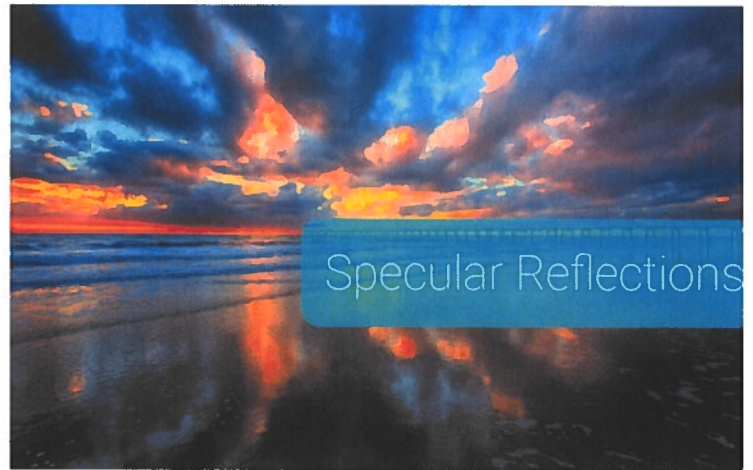
4:00 p.m.-8:00 p.m.

**240 SE Hwy 101
Lincoln City, OR 97367**

Local Artisans:



Live Music!



Pam Young Pottery

**Catering Provided By
Side Door Cafe**

**Until We Run Out...
So Don't Miss Out**

**Drawings
For
Fantastic
Door Prizes**



**If you would like to participate
as an
Artisan, Musician or Caterer
Give Us Call**





ONE REALTY **ONE** GROUP

AT THE BEACH

**Come Join Us For
Our 1st
Local
Beach Vibes
*Night!***

Kick off the Memorial Day weekend with us! Check out our new office while enjoying music, refreshments and local artists Steve & Calisse Browne and Ben Soeby. Their creations will be available to purchase. We can't wait to see everyone and catch up.

240 SE Hwy 101 Lincoln City, OR 97367

5/27/2021

4:00 p.m. - 8:00 p.m.

EXHIBIT 2 - Page 4 of 5

Each Office Is Independently Owned And Operated





ONE REALTY ONE GROUP¹¹⁹
AT THE BEACH

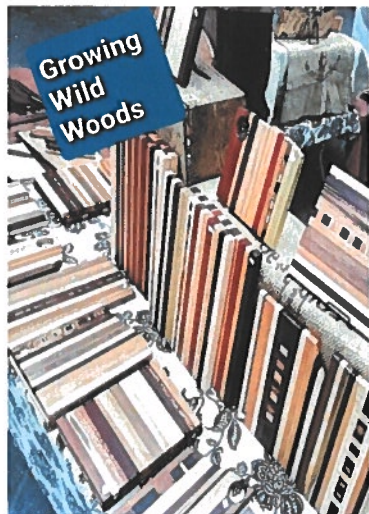
Come Join Us For Another Fun
Night Out!

Thursday July 1st
4:00 p.m.-8:00 p.m.

240 SE Hwy 101
Lincoln City, OR 97367

Live Music!

Local Artisans:



Drawings For
Door Prizes From:

Catering Provided By
Mazatlan

Until We Run Out....
So Don't Miss Out

"Side Door Cafe"
\$50.00 Gift Certificate

"Chinook Winds Casino"
**A One Night Stay in an
Oceanfront Room and Dinner
For Two at the Rogue River
Steak House**



If you would like to participate
as an
Artisan, Musician or Caterer
Give Us Call

Derrick Tokos

From: Lucinda Chapman [REDACTED]
Sent: Monday, November 14, 2022 2:47 PM
To: Derrick Tokos
Subject: Fwd: For Public Comment: City of Newport Planning Commission

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

Sent from my iPhone

Begin forwarded message:

From: Lucinda Chapman [REDACTED]
Date: November 14, 2022 at 2:21:23 PM PST
To: Lucinda Chapman [REDACTED]
Subject: For Public Comment: City of Newport Planning Commission

It is our opinion that the City of Newport's denial of a conditional use permit application; (File No. #2-CUP-22) , was accurate and correct. The Nye Beach District and its C2 zoning was designed to create and accommodate tourism, the backbone of Newport's economy. We now have two real estate offices in the Nye Beach area. This new proposal would add a third real estate office, within a block of the other existing offices.

In an already intensely competitive real estate market, to add an additional real estate store front; only makes it less likely that any office will succeed.

Our goal in this beautiful community; is to create a business parameter that supports prosperity, and good business for all. We survive on our tourism and Mom and Pop businesses. Let's not overwhelm any area with too many of the same businesses, for any of them to be successful. We don't need a real estate office on every block, we don't need a marijuana dispensary on every block, we don't need UBER, we have a Newport Cab.

Thank you for your consideration and for your more than accurate denial of a conditional use permit for File No: 2-CUP-22.

Sincerely--
Lucinda Chapman
Real Estate Broker, Nye Beach Property Owner, Business Owner

415 NW Coast St.
Newport, Oregon 97365

Text or Call 5412703435

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
November 14, 2022

Planning Commissioners Present: Jim Patrick, Bob Berman, Braulio Escobar, Gary East, Bill Branigan, and John Updike.

Planning Commissioners Absent: Jim Hanselman (*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 Patrick, Branigan, East, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of October 24, 2022.**

MOTION was made by Commissioner Branigan, seconded by Commissioner Escobar to approve the Planning Commission Regular Session meeting minutes of October 24, 2022 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Public Hearings.** At 7:06 p.m. Chair Patrick opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Branigan, and Updike 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 2-CUP-22-A.**

Tokos reviewed the staff report. He acknowledged the additional public testimony received from Lucinda Chapman in favor of the denial, and the letter from Attorney Zachary Dablow in favor of appeal.

Proponent: Zachary Dablow, attorney for the applicant addressed the Commission. He explained the nature of the appeal was well outlined when comparing of the approval of the Seashore Realty application and his client's application. Staff had approved Seashore's application on the same factor of whether or not the intent of the C-2 zoning district drew a direct connection that realty services were a direct connection to tourist services. Dablow explained that this was what the applicant tried to lay out in their original application materials by showing they wanted to have their office open to tourists. He thought the idea that the business offerings of Realty One would be broader and not serve the goals of the zone district didn't follow logic. There was nothing about it that said they solely had to service this. The added activity component and entertainment component exhibited the ongoing model of Realty One in all of its locations. This showed that it

was a uniform decision to locate in Nye Beach and target the service tourist market. Dablow reported that his client laid out a business plan to service more tourist people than Sea Shore. He also noted Sea Shore wasn't open on Sundays. Realty One would be open seven days a week to service tourists. Dablow pointed out the staff report comment that the Commission should consider if the extra entertainment activities were sufficient to establish the conditional use permit. He felt that targeting tourist to service them for their real estate needs was sufficient in and of itself, and extra services and entertainment options only bolstered the business model being reactive to the zoning district's needs. This wasn't a necessary precursor, it only showed how serious the applicant was about working in tandem with the goals of the zoning district.

Branigan asked if their Lee Street office had an art gallery and monthly activities. Ty Hildebrand, owner of the property addressed the Commission. He noted this location currently did events but didn't have art shows. Their Lincoln City office did art shows with food and drinks. Hildebrand reported that this was what they wanted to do in Nye Beach. Branigan asked if they were targeting sales in Nye Beach that they couldn't target on Lee Street. Hildebrand explained their draw to Nye Beach was to be able to serve the tourists because a lot of their sales came from people traveling in, seeing flyers, and eventually buying houses. He noted their agents also wanted to be closer to Nye Beach. Branigan asked what percentage increase on listings and sales they expected to get at this location. Hildebrand thought they would have a lot more traffic walking by. He didn't have a number but it would be more opportunity for them.

Escobar asked if parking was an issue there. Hildebrand reported they had parking behind the building and on street parking. Escobar asked about the layout of the condos upstairs and commercial on the lower. Hildebrand explained there two stores on the bottom level and apartments above.

Proponents: Carolyn Hagerman addressed the Commission. She reported that she owned the other commercial portion of the building. She sold the property to Hildebrand in March. The parking lot was divided in two sections. There were 8-10 parking spaces in the back for the apartments, and in the front there were 8-10 spaces for the ground floor commercial units. There was also a sign to say the parking was for the building. Hagerman noted that she wanted to do fundraising events with Hildebrand. She was familiar with Sea Shore Realty and said that they weren't open every day. She reported that the owner's wife had been sick and thought this was why they weren't open. Hagerman thought Hildebrand's ideas, along with hers, would provide an different way to do business in Nye Beach.

Branigan asked how long the property Hildebrand bought had been vacant before she sold it to him. Hagerman reported it hadn't been vacant. The previous business was offered the property to purchase but they chose not to buy and moved.

Opponents: Roland Woodcock with Sea Shore Realty addressed the Commission. He reported that he had a conflict of interest because he owned the other real estate office. Woodcock noted they were open on Sundays and thought they may not have updated their hours on Google Business to reflect this. They had designed their front space for people to come in and enjoy. Woodcock reported he had his number posted at the office so he could be contacted. He noted his wife was in perfect health. Woodcock pointed out that in the four years they had been in Nye Beach the work had already been transitioning to online. Foot traffic had diminished and tourists didn't go into a real estate offices. Woodcock saw less foot traffic being a factor, and noted this was general in the real estate industry.

Rebuttal: Zachary Dablow pointed out the Planning Commission was tasked to achieve broad based goals, not pick winners and losers in the market. They shouldn't protect one business from another from healthy competition that would have the same affect. The idea that two businesses couldn't service the same people in different ways wasn't their place to say. There was very little to differentiate to say that the business plan that was presented to the Commission at this meeting was less designed to serve tourists and entertainment opportunities for permanent residents. What they were talking about was what this application was doing to serve the goals of the zone district. Dablow thought they had sufficient evidence in the record that those goals were consistent with the application that was previously approved with staff and was consistently outlined in Mr. Hildebrand's efforts to be in Nye Beach. There shouldn't be a penalty by the Commission for there not being available property when evaluating whether or not the specifics of the zone were satisfied. When comparing this to the Sea Shore plan the Commission should find that they were satisfied.

Chair Patrick closed the hearing at 7:41 p.m.

Escobar didn't see any reason to overturn the staff decision. There were already two real estate offices in the area. Escobar noted that the comments from Wendy Engler indicated there were four offices and six retail businesses there, and this would be a fifth office. He wasn't certain they made a compelling argument to be in a C-2 district.

Branigan agreed that looking for real estate was now moving to the internet. With this being a tourist area there would be street traffic. Saying they would have artist showings and other events was just talk, and the Commission would be making a bet on the future of the things. Branigan didn't see enough evidence to override the staffs initial denial of the request.

Berman had a lot of trouble with the idea of the tourist commercial district put in place to direct the nature of the neighborhood. He couldn't get around the concept of fairness and fact that a very similar application, that never really mentioned any specific tourist services or resident entertainment, was approved in 2018. Berman saw some compelling elements of the applicant's business plan that went over and above to address the intent of the C-2 zone. He was inclined to override.

East thought that as long as they were doing the additional services, the parking has been addressed, and there was fundraising, he would agree to overturn the staff decision.

Updike asked if the applicants could be required to provide 12 events over a 1 year period as a mandated condition. Tokos explained they could stipulate it as a condition because the applicant had stated they would do this. He noted that enforcement would be difficult and would be responded to on a complaint basis. Updike saw the struggles of doing business in Nye Beach and being successful in the area. He though they should add a condition to require them to do 12 events per year, if that was the direction the Commission wanted to go.

Patrick was initially against this for the reasons that were stated by the people who objected to it. He reminded that real estate personal service offices shouldn't be in this zone. The other difficulty was having empty store fronts in the area which didn't do anyone good. Patrick reminded that in a past decision the Commission had put conditions on a church in Newport that required them to put in parking lines. This still hadn't been done after eight years. Patrick liked the idea of the condition that could cause additional traffic but questioned if it would take away viable retail business there.

East asked if there was art on display for sale, could it be classified as an art gallery. Updike noted when he was in San Francisco they were moving toward mix uses. The future of multiple uses was to make spaces viable and why he was tempted to say they should mandate some the requirements. Escobar thought the primary focus was real estate and the art component came in after the staff decision. Patrick noted they weren't deciding on just this application, but for future decisions on these type of things. He also pointed out there would be a question on enforcement. Berman thought they should go forward with good faith that the applicant would go through with the conditions. Branigan asked what would happen if they didn't abide with the conditions. Nye Beach didn't have enough commercial activities and he wanted to preserve what the original intent was in the overlay.

MOTION was made by Commissioner Berman, seconded by Commissioner East to override the staff decision and approve the conditional use permit with the conditions outlined in the prior decision. The motion failed with a tied vote of three ayes and three nays.

Tokos pointed out the Commission could continue the hearing to try to get the seventh Commissioner to vote. If they did this, the hearing would continue to the next regular session meeting on November 28th.

MOTION was made by Commissioner Branigan, seconded by Commissioner Updike to continue the hearing to the November 28th Regular Session meeting. The motion carried unanimously in a voice vote.

Tokos reported he would talk to Hanselman and ask him to review the record so he could vote on the 28th. He reminded that since this was a hearing continuation there could be additional testimony taken at the next meeting.

B. File 3-CUP-22.

Tokos reviewed his staff report. No questions were heard.

Proponents: Steve Hunter addressed the Commission. He reported he was the Executive Pastor of the First Baptist Church of Salem. He gave the history of the historical building and described the current layout and use of the building. Hunter explained they had a challenge with the layout not having private baths in the lodge, which didn't give people a sense of privacy. With the changes they would be able to add one bedroom allowing each bedroom to have its own private bath. They would be enclosing the porch area to put bathrooms in for the activity space. Hunter explained they were committed to keeping the building in its classical design. There would be challenges to finding materials that matched this, and they were doing their best to do so.

Branigan asked if one of the new bathrooms had a bathtub. Hunter reported they had families that rented the space who had small kids who wanted tubs. They created a singular bathroom for this accommodation.

Chair Patrick closed the hearing at 8:09 pm.

Updike had no issues and acknowledged the challenges they would have to make replacements. East thought they stuck to the character of the building and had no problems with it. Berman agreed and hoped that when they did the improvements they wouldn't be able to tell the difference from the old and new sections. He appreciated the services they made available. Branigan had no issues and though the plans were detailed and easy to follow. He was all for it and thought they provided

a valuable service. Escobar agreed with the Commissioners and thought they did a good job. Patrick agreed.

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve File 3-CUP-22. The motion carried unanimously in a voice vote.

Tokos would bring the final order and findings to the next regular session meeting for approval.

5. Action Items.

A. **Initiate Legislative Process to Adopt the Housing Capacity Analysis Piece of Housing Study.**

Tokos reported the Commission needed to initiate the legislative process so he could get it to the State for noticing. Escobar was concerned the Advisory Committee was only half way through the process and questioned if they were putting the cart before the horse. Tokos explained this was a two part study. Part one was the technical piece that the Committee had already thoroughly vetted. The State law said they had an obligation to move this forward. The real meat of this was going to be the housing production strategy, which they didn't have to adopt by ordinance and could be part of a resolution. This drew from existing, generally reliable sources and was there to inform future policy discussions.

Berman asked if anything would change before it came back to the Commission. Tokos explained most of it was done at that point and it was 90 percent complete. Escobar asked when they would discuss recommendations and options. Tokos explained the remaining advisory committee meetings were on the housing production strategy, which wasn't in this document. This document gave information on what they were dealing with and didn't bind them with respect to policies. Updike asked how much work they expected to get out of this. Tokos explained they wouldn't have a specific target, but it would tell a story based on the State data and historical growth rates. It would set the data story in terms of how underwater Newport was on shortages. Tokos reported the analysis was substantially complete at that point.

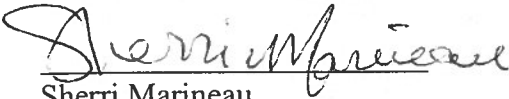
Patrick pointed out that the housing projections from the 1980's to 1990's report were never built. Tokos reminded that in the last four years they had seen a lot of multifamily construction that they hadn't see in many years. They would have an opportunity to have a healthy discussion on this as part of the housing production strategy, which was part two in the discussions. Berman thought that if they were going to say it was a needs study that it should reflect the true needs, which included the backlog and projected growth. Escobar thought the comments on the prior projections were needed.

Patrick was happy to move this forward. Tokos noted this was a State requirement under House Bill 2003 and Newport was obligated to adopt this. He reminded that this was a technical analysis with projections. The ordinance that was being brought forward would pull a number of specific implementation measures, many of which were already implemented out of our comprehensive plan, they were going to be replaced by the new housing production strategy that didn't land in the comprehensive plan. Tokos pointed out that all cities would be doing housing production strategies that were not in the comprehensive plans. Jurisdictions were tired of parties picking out policies in comprehensive plans and tying things up in litigation until a project went away. They also argued that a housing production strategy that wasn't adopted into the comprehensive plan was more flexible because they could adjust the policies as needed without having to go through a formal adoption process.

MOTION was made by Commissioner Berman, seconded by Commissioner Branigan to initiate the legislative process to adopt the Housing Capacity Analysis Piece of the Housing Study. The motion carried in a voice vote. Escobar was a nay.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 8:26 p.m.

Respectfully submitted,



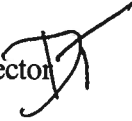
Sherri Marineau
Executive Assistant

City of Newport

Community Development Department

Memorandum

To: Planning Commission

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

Date: November 23, 2022

Re: Continued Hearing on Appeal of Staff Decision Denying a Conditional Use Permit for a Real Estate Office in Nye Beach (File No. 2-CUP-22)

The City has not received any additional public comment since the hearing was continued by the Planning Commission after it took testimony on November 14, 2022. Staff reached out to Commissioner Hanselman to let him know that the members were split on how to resolve the appeal, and provided him with a link to the meeting materials and the audio/video file from the proceeding.

Since the Commission elected to continue the public hearing, additional public comment can be submitted and any that our office receives will be promptly forwarded to your attention. You will also have an opportunity to receive additional testimony in writing or verbally at the meeting on Monday. With respect to the process, the Commission Chair should read the prepared hearing script at the beginning of the meeting. Once that item is addressed, staff will have an opportunity to provide a report, followed by testimony from the applicant, proponents, and opponents just like the steps that were followed for the November 14, 2022 meeting.

Sherry Marineau

From: Derrick Tokos
Sent: Monday, November 28, 2022 12:01 PM
To: 'Ty Hildebrand'
Cc: Sherry Marineau
Subject: RE: For the public hearing

Hi Ty... we will forward your comments to the Planning Commission members.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Ty Hildebrand <ty@rogwv.com>
Sent: Monday, November 28, 2022 11:48 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: For the public hearing

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One thing we didn't discuss at the last hearing was the reason we were moving. There was a comment made that we are doing fine at our current location. We are struggling with homeless to the point where we have to keep the doors locked if a broker is in the office alone. There have been fires set in tents outside our front door and many other not so pleasant actions.

I still don't understand how Seahorse Properties and Guild Mortgage were able to open without issue. Seems to me the precedent was set then.

Our brokers service both the community buying and selling homes and tourists looking for a second home. We believe strongly that we can be a place that can promote the community and provide information about what is going on in Nye Beach and other community events.

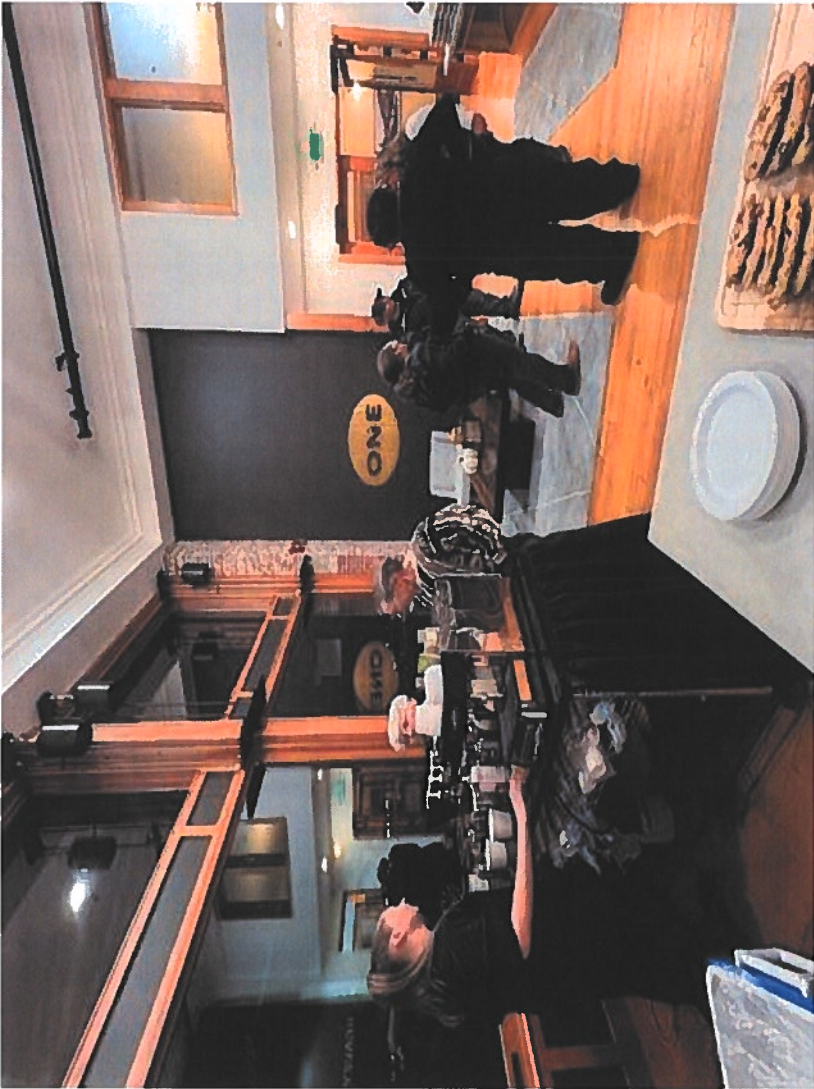
I appreciate everyone's time and consideration.

Here is an example of an event we held last week at our Albany office.









TY HILDEBRAND | OWNER

Principal Real Estate Broker | Managing Broker

[Realty ONE Group Willamette Valley](#) Salem | Dallas | Albany

[Realty ONE Group At the Beach](#) Newport | Lincoln City

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m: 503.881.2313 | e: ty@rogwv.com

[Join The ONE Family](#)

November 28, 2022

City of Newport
Planning Commission ("Commission")
Via Submission to Staff by Email: d.tokos@newportoregon.gov

**RE: File No. 2-CUP-22
Analysis and Written Testimony in Support of Conditional Use Approval**

Dear Sirs/Madams of the Planning Commission:

As you know, this office represents the Applicant in the above referenced conditional use permit appeal, which has been presented to the Commission and for which presently a 3 - 3 decision has been partially rendered.

The record is extensive and presented to the Commission for the final vote, but I wanted to lay out a couple of key points for consideration of our final commissioner.

First, I wanted to reiterate that this decision, as a land use decision, is evaluating whether the proposed use meets the conditional criteria for the zone. Here, that has been focused by prior briefing by the City staff and the applicant to surround the singular criteria laid out in my prior letter of November 8, 2022.

A business that currently operates in the Nye Beach district has already been approved on those criteria, and nothing in this applicant's materials have been demonstrated to differentiate that approved applicant's business plan, and this applicant's business plan.

There has been a misguided focus on the office this Applicant already has in a different zone in Newport, but this Applicant should not be punished for wanting to more quickly start servicing the Newport community in a different zone, while it searched for the specific location in Nye Beach that aligns with the applicant's business plan. Said more directly, nothing about the conditional zone criteria speaks to the alternative possibilities for locating a business. Had the applicant simply waited to start doing business in Newport, those non-criteria that has seemingly served to distract the Commission from evaluating whether the applicant is seeking to serve the entertainment needs of tourists and residents, as the prior applicant did, would never have been considered by the Commission. It seems a rather perverse incentive to those that wish to join and serve the community of Newport, that one's anxiousness to get started here would be used to make one's long-term plans untenable.

Additionally, there seems to be a focus on the number of real estate business in the location, in evaluating whether this conditional use should be granted. I respectfully remind the Commission, that while it clearly makes larger scale decisions on the types of uses are allowed in the zone, the Commission's review of the types of conditional use set forth in this application, does not occur in a vacuum. There are market forces that effect service providers. The Commission in making its initial vote, appeared to focus on a change in the amount of pedestrian foot traffic, and the prior approved conditional use business being open enough to service tourists in the area. This focus, respectfully, was again misguided, in that it focuses on competition between potential businesses, not on whether the business plan of this Applicant satisfies the applicable criterion. To the extent that this Commission predicates its decision on whether there are too many real estate offices, it should a) carefully consider that the number of existing real estate offices is not a valid criteria by

November 28, 2022

Page 2

which to judge, and the market will quickly act in concert with Commission approval, for the best benefit of the tourists and residents. If this Applicant provides a more attractive product for tourists, it will secure more of the market share of target customers. This will create competition for those target customers. That competition is exactly what this Commission should anticipate will drive better services for tourists in the zone district.

Disapproving this application will reduce any incentive for real estate services providers in the zone district to improve their product and direct it towards the goals of the zone district. The Applicant urges the Commission to approve this application, to create more opportunities for tourist engagement, and further incentivize existing providers to more carefully focus their offerings to tourists as the target customer.

The Applicant thanks the Commission for considering this appeal.

Sincerely,

s/ Zachary Dablow

Zachary Dablow

nrb

cc: *Realty One*

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)



November 28, 2022 Work Session

- Discussion with Thompson Sanitary Regarding Trash Enclosure Standards for Multi-Family Dev
- Overview of Updated Zoning Web Maps
- Review of Camping Related Land Use Amendments (Follow-up from 9/26/22 WS)

November 28, 2022 Regular Session

- File 2-CUP-22-A Continued Hearing on Appeal of CUP Denial of Real Estate Office in C-2
- File 3-CUP-22 Final Order and Findings for Remodel of the Ernest Bloch House
- Initiate Legislative Amendment Process for Camping Related Land Use Amendments

December 12, 2022 Work Session (Cancelled)

December 12, 2022 Regular Session

- File 2-CUP-22-A Final Order and Findings on Appeal of CUP Denial of Real Estate Office in C-2

December 26, 2022 (Cancelled)

January 9, 2023 Work Session (Cancelled)

January 9, 2023 Regular Session

- Annual Organizational Meeting
- File 5-Z-22 Public Hearing on Draft Ordinance No. 2202 – STR Work Group Recommendations
- File 3-AX-22/7-Z-22 Public Hearing on South Beach Church Annexation & Zone Change
- File 4-CUP-22 Public Hearing on Conditional Use Permit for Toyota of Newport

January 23, 2023 Work Session

- Placeholder for Review of Draft Multi-Family/Commercial Trash Enclosure Standards
- Review Draft Amendments to Special Parking Area Regulations (Follow-up to 9/26/22 WS)
- Placeholder for Work Session on Draft Ord. No. 2202 – Considering Feedback from 1/9/23

January 23, 2023 Regular Session

- Public Hearing on Housing Capacity Analysis Portion of Housing Study (Part I)
- File 4-Z-22 Public Hearing on Camping Related Land Use Amendments
- Initiate Legislative Amendment Process for Special Parking Area Amendments

February 13, 2023 Work Session

- Review Draft Housing Production Strategy Component of Housing Study (Part II)
- Review Options for Updating the City's Erosion Control and Stormwater Mgmt Standards
- Update on Status of South Beach Island Annexation Process
- FY 23/24 Goal Setting Session

February 13, 2023 Regular Session

- File 5-Z-22 Placeholder for Hearing #2 on Ord. No. 2202 – STR Work Group Recommendations

February 27, 2023 Work Session

- Placeholder for Review of Amendments Related to Yaquina Bay Estuary Plan Update
- Placeholder for City Center Revitalization Project Update (Consultant to be hired by 1/23)

February 27, 2023 Regular Session

- Placeholder to Review County Changes to Boston Timber Opportunities UGB Land Swap

Sherri Marineau

From: Gail McGreenery [REDACTED]
Sent: Tuesday, December 06, 2022 7:47 AM
To: Derrick Tokos; Sherri Marineau; Spencer Nebel
Subject: Resignation...

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

Hi Derrick & Spencer,
CC: Sherri,

It is with great sadness that I am resigning from the 'Advisory Board' for the 'Planning Commission'. Unfortunately personal commitments to my family need to be my top priority at this time.

Thank you Derrick and Spencer for giving me this opportunity. I think the citizens of Newport should be very honored to have such an incredible and hard working city staff. And such a wonderful team of volunteers.

Very Best to all,
Annie McGreenery

--
Annie