



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, April 22, 2024 - 7:00 PM
Council Chambers, 169 SW Coast Hwy, Newport, Oregon 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: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, and John Updike.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Regular Session Meeting Minutes of April 8, 2024.

[Draft PC Reg Session Minutes 04-08-2024](#)

[04-08-24 PC Regular Session Meeting Video Link](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment form 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 submitting a form. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

3.A Public Comment:

[Mark Arnold Email 4-19-2024 - Item 1](#)

[Mark Arnold Email 4-19-2024 - Item 2](#)

4. ACTION ITEMS

5. PUBLIC HEARINGS

5.A File No. 1-VAR-24 (Continued): Harbor Freight Sign Variance.

[Memorandum](#)

[Staff Report](#)

[Attachment A - Application Form](#)

[Attachment B - Applicant's Narrative](#)

[Attachment C - Wall Sign Permit and Schematic Drawings](#)

[Attachment D - Aerial Image of Property with Sign Locations](#)

[Attachment E - Property Sign Inventory](#)

[Attachment F - Public Hearing Notice](#)

[Attachment G - Municipal Code Chapter 10.10 \(Sign Regulations\)](#)

[Attachment H - Email from City Attorney and Linked Summary of 1973 Clackamas County v. Emmert Court of Appeals Case](#)

[Attachment I - Final Order and Findings for File No. 2-VAR-23](#)

[Attachment J - Final Order and Findings for File No. 3-VAR- 18](#)

[Attachment K - Final Order and Findings for File No. 1-VAR-15](#)

[Attachment L - 2020 Wall Sign Permit for Corvallis Harbor Freight Store](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

- 7.A Planning Commission Work Program Update.
[PC Work Program 4-18-24](#)

8. DIRECTOR COMMENTS

- 8.A Discussion Items:
[2024 Legislative Session Summary](#)
[2024 Land Use Legislation Report](#)

9. ADJOURNMENT

**City of Newport
Draft Planning Commission Regular Session Minutes
April 8, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT	
Time Start: 7:00 P.M.	Time End: 7:56 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan (by video)	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherrri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	PUBLIC MEMBERS PRESENT
Commissioner Braulio Escobar	Tracey Diehl (by video)
Commissioner John Updike	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
APPROVAL OF THE MINUTES	
	Berman reported minor corrections to the March 11th work session meeting minutes, and requested that public members in attendance for Commission meetings be added to the minutes.
a. Meeting minutes of Work Session Meeting on March 11, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Updike, to approve the work session meeting minutes of March 11, 2024 with minor corrections. Motion carried unanimously in a voice vote.
b. Meeting minutes of Regular Session Meeting on March 11, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Updike, to approve the regular session meeting minutes of March 11, 2024 with minor corrections. Motion carried unanimously in a voice vote.
c. Amended Meeting minutes of Work Session Meeting on March 25, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Updike, to approve the work session meeting minutes of March 25, 2024 with minor corrections. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	
	None.
PUBLIC HEARING	
File No. 1-VAR-24: Harbor Freight Sign Variance.	

<p>a. PUBLIC HEARING OPEN</p>	<p>7:06 p.m.</p> <p>Commissioner Escobar reported a site visit to the property. Commissioners Berman, Updike, Escobar and Branigan reported a drive-by of the property.</p>
<p>b. STAFF REPORT - DERRICK TOKOS</p>	<p>Tokos presented the written staff report.</p> <p>Commissioners asked questions concerning the monument sign location; city permits; the current wall sign on 6th Street; the calculation of the square footage of the signs at the property; and the temporary banner sign on building.</p> <p>Tracey Diehl, representative for the applicant, answered the Commission’s questions and spoke in support of the approving the variance. She wanted it noted that the sign had been installed before the applicant was notified of the corrections needed. Diehl explained that they measured the overall coverage area of the sign as 225.35 square feet, which was different from the city’s method of measuring for the square footage of the sign as 282.78 square feet. Escobar asked if they would meet the parameters if the wall sign was to remain and they took down the pole sign. Diehl reported this was something the applicant would need to think about and decide. Hanselman asked if they considered removing the words on the bottom of the Harbor Freight letters of the sign. Diehl reported this was part of their branding and was a trademark logo that couldn’t be removed.</p> <p>Diehl made a formal request for a hearing continuance to present additional evidence.</p> <p>Commissioner Escobar liked that they would be able to have further discussions after receiving more evidence from the applicant. Berman reminded that the sign contractor should have been aware of the sign code limitations. He thought the sign variance was in excess and wasn’t in favor of it. Branigan wanted to reserve his input until he heard the additional testimony from the applicant. Updike questioned if the Commission was excluded from considering the City’s permit issuance error or the cost impact of the error. Tokos noted that they weren’t precluded to using that consideration when making their decision, but reminded the purpose of that code was for when the public was harmed. Updike was concerned about the precedent going forward.</p>
<p>c. PUBLIC COMMENT</p>	<p>None.</p>

	Motion was made by Commissioner Escobar, seconded by Commissioner Updike, to continue the hearing to the 7:00 pm meeting to be held on April 22, 2024. Motion carried unanimously in a voice vote.
<p>NEW BUSINESS</p> <p>Planning Commission Work Program Update.</p>	Tokos gave an update on the City Center Revitalization project and the Estuary Management Plan amendments.

Submitted by: _____

Sherrri Marineau, Executive Assistant

DRAFT

04-08-2024 - Planning Commission Regular Session Meeting Video Link:

https://thecityofnewport.granicus.com/player/clip/1236?view_id=2&redirect=true

Sherri Marineau

From: Mark Arnold [REDACTED]
Sent: Friday, April 19, 2024 2:04 PM
To: Public comment
Subject: Written comments submitted for Newport Planning Commission Regular Session, 4/22/24
Attachments: Written comments submitted to Planning Commission for regular session on 4_22_24.pdf; Selected Excerpts from Goal 16 and Comments.pdf; ODA Yaquina Bay Commercial Shellfish Management Area, October 2020.pdf; Reasons to allow shellfish aquaculture & research projects in Management Units 9 and 10.pdf; Major Changes to Yaquina Bay in Newport.pdf

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

Hi. I am submitting written comments to include in "Agenda Item 3 Citizen/Public Comment" at the Planning Commission Regular Session to be held on April 22, 2024.

These comments relate to the Yaquina Bay Estuary Management Plan (YMEMP) and are provided so the Commission may have them in advance of the next meeting scheduled for May 13, 2024.

The comments are provided in the following files:

- Written comments submitted to Planning Commission for regular session on 4-22-24
- Selected Excerpts from Goal 16 and Comments
- ODA Yaquina Bay Commercial Shellfish Management Area, October 2020
- Reasons to allow shellfish aquaculture & research projects in Management Units 9 and 10
- Major Changes to Yaquina Bay in Newport
- Historical Information about Management Unit 9 [Note: Due to the file size, I will sent this file attached to a separate email.]

Thank you very much for considering this information.

Mark Arnold
[REDACTED]

YAQUINA BAY ESTUARY MANAGEMENT PLAN (YBEMP)

Written Comments Submitted to Newport Planning Commission, April 22, 2024

My name is Mark Arnold. I live inside the Newport Urban Growth Boundary and own tideland inside and outside the City Limits. I have been helping my son and daughter-in-law start a very small oyster farm in Kings Slough. We have a major interest in the Yaquina Bay Estuary Management Plan (YBEMP).

To support your consideration of the Yaquina Bay Estuary Management Plan, I am submitting the following background material:

- “Selected Excerpts from the Goal 16: Estuarine Resources Rule about Estuary Characteristics to be Reflected in Estuary Management Plans.” To comply with the provisions in these excerpts, the YBEMP should reflect the Oregon Department of Agriculture (ODA) map of the Yaquina Bay Commercial Shellfish Management Area.
- The Oregon Department of Agriculture map of the Yaquina Bay Commercial Shellfish Management Area. This map shows Kings Slough as an “Approved Area” for growing shellfish for human consumption, and an area upstream from River Bend as a “Conditionally Approved Area” for growing shellfish for human consumption. (This map was submitted previously to the Planning Commission on January 22, 2024.)
- “Reasons to Allow Shellfish Aquaculture and Research Projects in Natural Management Units 9 and 10.” These reasons can be used to support appropriate YBEMP “Estuarine Use Standards” for shellfish aquaculture and research projects and, if needed, used as justification of Goal 16 Exceptions.
- “Historical Information About Major Changes to Lower Yaquina Bay Estuary.” This information includes major changes in the Newport area that have had an impact on Idaho Flat (in Management Unit 9) and Sally’s Bend (Management Unit 10), and may have impacted additional areas of the estuary, so that much of the estuary is no longer a pristine, untouched “natural” area.
- “Historical Information About Management Unit 9.” This information includes major activities that occurred in Kings Slough and at the mouth of Kings Slough which impacted this area of Management Unit 9 so it is no longer a pristine, untouched “natural” area.

In addition to this information, on January 22, 2024, I submitted a copy of the NOAA Fact Sheet “Aquaculture Provides Beneficial Ecosystem Services” which describes how shellfish aquaculture (and oyster farming in particular) benefit the estuary, for example, by filtering water and capturing carbon.

Thank you for giving me the opportunity to present this information.

SELECTED EXCERPTS FROM THE GOAL 16: ESTUARINE RESOURCES RULE
ABOUT ESTUARY CHARACTERISTICS TO BE REFLECTED IN ESTUARY MANAGEMENT PLANS

NOTE: Pursuant to Oregon Revised Statutes, rules and state-wide goals are adopted by the Land Conservation and Development Commission, not DLCD.

IMPLEMENTATION REQUIREMENT 3

“3. State and federal agencies shall review, revise and implement their plans, actions, and management authorities to maintain water quality and minimize man-induced sedimentation in estuaries. Local government shall recognize these authorities in managing lands rather than developing new or duplicatory management techniques or controls.”

Comments

This requirement applies to DLCD as well as to other State agencies. DLCD is required to support actions to maintain water quality. The State of Oregon, in statute, assigned responsibility to the Oregon Department of Agriculture for identifying areas suitable for commercial shellfish aquaculture. The ODA approved areas are based on extensive water quality testing, and only a few areas in Oregon’s estuaries satisfy the stringent ODA water quality requirements. DLCD should acknowledge the areas in estuaries that ODA has identified as having a high level of water quality necessary for growing and harvesting shellfish for human consumption. Goal 16 Implementation Requirement 3 requires DLCD to be supportive of ODA determinations about water quality, not to ignore nor undermine the ODA determinations.

Even if DLCD is non-compliant with Implementation Requirement 3, local governments still need to follow Implementation Requirement 3, should acknowledge the ODA water quality determinations as part of their estuary management plans, and be supportive of maintaining a high level of water quality where it exists.

IMPLEMENTATION REQUIREMENT 8

“8. State and federal agencies shall assist local government in identifying areas for restoration. Restoration is appropriate in areas where activities have adversely affected some aspect of the estuarine system, and where it would contribute to a greater achievement of the objective of this goal. ... “

Comments

The Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers should have records of permits issued for dredge and fill in estuaries. The DLCD’s August draft update to the Yaquina Bay Estuary Management Plan mentions that extensive dredge and fill have occurred in some areas of the estuary but provides no detailed information about the location and amount of dredge and fill nor about the potentially adverse impact that past dredge and fill activities may have had on the estuarine ecosystem, including adjacent “natural” areas.

Even if DLCD and other State and federal agencies do not provide detailed information about past dredge and fill activities, information from other available sources should be taken into consideration. The failure of DLCD to obtain and provide this information does not mean the impact of past dredge and fill activities can, nor should, be ignored.

In locations impacted by past dredge and fill activities, the intent of Implementation Requirement 8 is that activities be allowed, even encouraged, to improve the biological productivity of the ecosystem.

GUIDELINES: A. INVENTORIES

“... the inventories for estuarine features should include:

“1. Physical characteristics

...

“b. Water characteristics including, but not limited to, salinity, temperature, and dissolved oxygen.”

“2. Biological

...

“h. Areas presently in commercial aquaculture.”

“3. Social and economic characteristics—Location, Description, and Extent of:

“a. The importance of the estuary to the economy of the area;

“b. Existing land uses surrounding the estuary;

“c. Man-made alterations of the natural estuarine system;

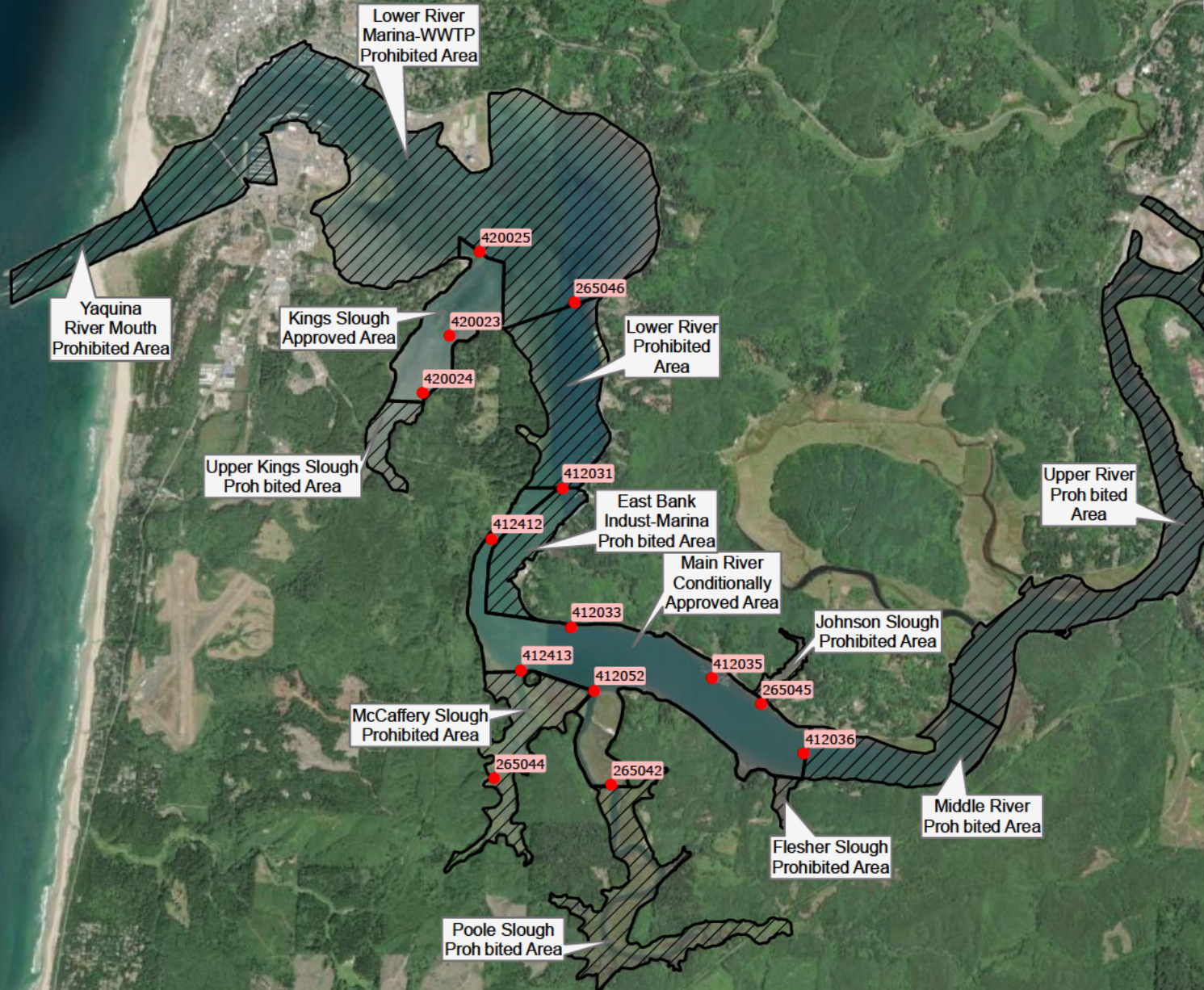
“d. Water-dependent industrial and/or commercial enterprises; ...”

Comments

The inventories should include the Oregon Department of Agriculture map of the Yaquina Bay Commercial Shellfish Management Area showing locations in the estuary that are an “Approved Area” or a “Conditionally Approved Area” for growing and harvesting shellfish for human consumption. The ODA determination is based on water quality. The ODA map is relevant to Inventory Requirement 1.b. Water characteristics; Inventory Requirement 2.h. Areas presently in commercial aquaculture; and Inventory Requirement 3.d. Water-dependent ... commercial enterprises. Also, locally-grown shellfish are relevant to Inventory Requirement 3.a. The importance of the estuary to the economy of the area.

In addition, the Yaquina Bay Estuary Management Plan should take into consideration existing land uses adjacent to Management Units 9 and 10 (Inventory Requirement 3.b.) and past man-made alterations to the natural estuarine system that have an impact on Management Units 9 and 10 (Inventory Requirement 3.c).

Yaquina Bay Commerical Shellfish Management Area



REASONS TO ALLOW SHELLFISH AQUACULTURE AND RESEARCH PROJECTS
IN NATURAL MANAGEMENT UNITS 9 AND 10

BACKGROUND

Oregon Coast Classification System

In the Oregon Estuary Classification System, there are four types of estuaries:

“Natural estuaries”

“Conservation estuaries”

“Shallow-draft development estuaries”

“Deep-draft development estuaries”

(OAR 660-017-0010)

Yaquina Bay is a Deep-draft Development Estuary

Under “Major Estuary Classification,” Yaquina Bay is classified as a “Deep-draft Development Estuary.” Of the 22 major Oregon estuaries, Yaquina Bay is only one of three estuaries in the State that are classified as a “Deep-draft Development Estuary.” The other two are Coos Bay, on the south coast, and Columbia River at the north boundary of Oregon. (OAR 660-017-0015)

“Deep-draft development estuaries’: Estuaries with maintained jetties and a main channel maintained by dredging at deeper than 22 feet.” (OAR 660-017-0010(4))

Characteristics of “Natural estuaries” and “Conservation estuaries”

“Natural estuaries’: Estuaries lacking maintained jetties or channels, and which are usually little developed for residential, commercial, or industrial uses. They may have altered shorelines, provided that these altered shorelines are not adjacent to an urban area. Shorelands around natural estuaries are generally used for agricultural, forest, recreations, and other rural uses.” (OAR 660-017-0010(1))

“Conservation estuaries’: Estuaries lacking maintained jetties or channels, but which are within or adjacent to urban areas which have altered shorelines adjacent to the estuary.” (OAR 660-017-0010(2))

REASONS TO ALLOW SHELLFISH AQUACULTURE AND RESEARCH PROJECTS IN NATURAL
MANAGEMENT UNITS 9 and 10

Management Units 9 and 10 are no longer pristine, untouched “natural” areas.

Both Management Units 9 and 10 consist of large tracts of tideland. However, both Management Units 9 and 10 have some characteristics of “Natural estuaries” and some characteristics of “Conservation estuaries.” Both estuaries have some limited shoreline adjacent to the City of Newport. Both estuaries have some limited shoreline with riprap.

Management Unit 9 has significant shoreline adjacent to a residential area and a forest area inside the Urban Growth Boundary as well as shoreline outside the Urban Growth Boundary adjacent to a forest area. Management Unit 10 has all its shoreline adjacent to developed areas. None of the shoreline of Management Unit 10 is adjacent to forest or agricultural land.

Significant changes made to the lower Yaquina Bay estuary have created an estuary where tidelands are no longer pristine, untouched “natural areas.” The tidelands in Management Unit 9 (Idaho Flat, King Slough, and upstream) and Management Unit 10 (Sally’s Bend) no longer have all the characteristics of a “natural estuary” as defined by DLCD’s regulation for Classifying Oregon Estuaries (OAR 660-017). (See “Historical Information About Major Changes Made to Lower Yaquina Bay Estuary” and “Historical Information About Management Unit 9”.)

Most other Management Units are not approved for growing shellfish for human consumption.

Growing shellfish for human consumption is appropriate for portions of Management Unit 9 that have been classified by the Oregon Department of Agriculture (ODA) Commercial Shellfish Program as the only “Approved Area” in the Yaquina Bay estuary for growing shellfish for human consumption. Another area (in Management Units 16 and 17) is classified by ODA as a “Conditionally Approved Area” but that area is already being used by an oyster farm in existence for a century and is not available for anyone else starting a new oyster farm. These are the only areas in the entire Yaquina Bay estuary where ODA has granted approval for growing shellfish for human consumption, based on extensive and favorable water quality testing. If extensive water quality testing is done in the future in another area, and if the results are favorable, it may be possible in the future for another area to be opened up. In addition, it may be possible to grow clams commercially at Sally’s Bend that can be made available to the commercial fishing fleet to use as crab bait. At this time, however, Management Unit 9 has the only ODA “Approved Area” in the estuary. (See ODA map “Yaquina Bay Commercial Shellfish Management Area”.)

Research projects should be allowed in proximity to the OSU Hatfield campus.

Conducting research projects (more than simple observation) is appropriate for Management Units 9 and 10 due to their proximity to the OSU’s Hatfield Marine Science Center. In addition, a portion of Management Unit 9 (Idaho Flat) is owned by the Oregon Board of Higher Education, considered as part of the campus of OSU’s Hatfield Marine Science Center, and adjacent to the Hatfield location. OSU researchers should be allowed to use OSU tideland to conduct research projects, and they should be allowed to conduct research projects on nearby tideland with the approval of the tideland owners.

Oysters are beneficial (not detrimental) to the ecology of the estuary.

Growing oysters commercially, using “best practices,” is beneficial to the ecology of the estuary, encouraged by the Federal Government (NOAA Fact Sheet “Aquaculture Provides Beneficial Ecosystem Services”), and supported by The Nature Conservancy. In addition, the development of commercial oyster aquaculture is a priority of the State of Oregon.

To implement State policy to enhance shellfish production in the Yaquina Bay estuary, it is necessary to grow shellfish in areas with excellent water quality and sufficient salinity.

The State of Oregon has a shellfish policy that includes seeking opportunities to expand commercial shellfish production:

“ORS 622.015 Shellfish policy. (1) The Legislative Assembly finds and declares that it is the policy of the State of Oregon to seek opportunities to:

“(a) Enhance and expand cultivated shellfish production;

“(b) Conserve, protect and restore wild populations of native shellfish; and

“(c) Improve water quality and the health of aquatic and marine habitats.

“(2) In furtherance of the policy declared by this section, it is the intent of the Legislative Assembly that the state develop and adopt a shellfish initiative to prioritize and implement strategies for achieving protection of native shellfish and the enhancement of shellfish production. [2015 c. 814 section 1]”

....

The only areas where it is feasible to expand shellfish aquaculture in the Yaquina Bay estuary, consistent with the State of Oregon shellfish policy, are Natural Management Units with high levels of water quality that meet ODA requirements and sufficient levels of salinity. Regulations prohibit growing shellfish for human consumption in areas where bacteria levels exceed stringent standards and areas where there is a risk of even very low levels of toxins entering the water. In general, this prohibits growing shellfish in the vicinity of marinas, boat mooring areas, boat-works, sewage treatment plant outfalls, or other areas in Development Management Units and some Conservation Management Units. In addition, oysters grow on tidelands having water with sufficient salinity, which precludes growing oysters in upstream areas of the Yaquina Bay estuary that are too far from the Pacific Ocean.

Growing shellfish and conducting research projects are compatible with adjacent areas.

Conducting research projects and “best practice” shellfish aquaculture are compatible with uses along the adjacent shoreline. For Management Unit 9, the shoreline at the west of Idaho Flat includes an area inside the Newport City Limits used for the Hatfield Marine Science Center, the Oregon Coast Aquarium, a commercial area, and a townhouse complex. Also, for Management Unit 9, a significant amount of shoreline starting at the Newport City Limits and extending east along the south shore of Idaho Flat and then extending for 1/2 mile along the west shore of King Slough is an area zoned R-1 residential and inside the Newport Urban Growth Boundary. The remainder of the west shore of King Slough is forest land inside the Newport Urban Growth Boundary. The east shoreline of King Slough and the shoreline upstream from King Slough is forest zone T-C Timber-Conservation. For Management Unit 10 (Sally’s Bend), the west shore is adjacent to McLean Point which has the NW Natural storage tank and other facilities and is inside the Newport City Limits. The remaining shoreline of Sally’s Bend, outside the City Limits includes an area inside the Urban Growth Boundary zoned residential R-1 and an area outside the Urban Growth Boundary zoned residential RR-2.

Additional information provided:

- Historical Information About Major Changes to Lower Yaquina Bay Estuary.
- Historical Information About Management Unit 9.

HISTORICAL INFORMATION ABOUT
MAJOR CHANGES MADE TO LOWER YAQUINA BAY ESTUARY

Official United States Land Surveys

The United States General Land Office conducted official land surveys of the State of Oregon (as well as for many other states) that were subsequently used as the basis for issuing United States grants, including land patents, of the public lands. As part of this activity, the General Land Office conducted land surveys in Lincoln County, Oregon. The land surveys conducted in the vicinity of Newport for Township 11 South, Range 11 West, Willamette Meridian, showed the Yaquina Bay waterway and tideland granted by the United States to the State of Oregon, and as well as showing adjacent surveyed sections where public lands could be granted by the United States by land patents or other means to private individuals and other recipients.

United States General Land Office survey maps were drawn in 1867 and 1870 and certified by the Surveyor General of Oregon as consistent with the official land surveys. The 1870 certification reads: "The above map of T 11 S & R 11 West Will Mer Oregon is strictly conformable to original field notes of the survey thereof on this Office which have been examined and approved.

"Surveyor Generals Office

"Eugene City Oct. 25 1870

"E L Applegate, Surveyor General of Oregon"



United States Coast Survey

In the late 1860s, the United States Government surveyed the Pacific coast.

Detail from 1868 U.S. Coast Survey Chart Showing Part of Lower Yaquina Bay



Source: 1868 U.S. Coast Survey of "Yaquina River Entrance" Oregon

Initial Construction of South and North Jetties

A sign at the South Beach State Park reports:

“The U.S. Army Corps of Engineers began building the south jetty in 1881.

“Building the jetty was quite a feat of engineering for its day. The rocks arrived in Newport by barge, then were hauled out to the jetties on railroad cars. Some of the rocks weigh 30 to 40 tons each.”

Reported in the *Lincoln County Leader* in 1894:

“In 1881 a jetty project was adopted to construct a low-tide level stone jetty on the south side of the Yaquina bar at a cost of about \$465,000. The jetty was built from a tramway begun at the high-tide line and had been built to a length of about 4000 feet. Then in 1888, a jetty project was to raise the south jetty to a high-tide level without extending it, and to build a mid-level jetty about 2300 feet on the north side of the bar. The cost of this project was about \$755,600. This project was modified in 1892 to make the north jetty a high-tide jetty.”

(Source: [Steam Towards The Sunset](#), The Railroads of Lincoln County, by Lloyd M. Palmer, published by Lincoln County Historical Society, Third Edition 2003, page 143.)

Work continued in subsequent years on the jetties. The *Lincoln County Leader* reported about additional work being done on the jetties, and stone being quarried for the jetties, from 1918 through 1939. (Source: [Steam Towards The Sunset](#), The Railroads of Lincoln County, by Lloyd M. Palmer, published by Lincoln County Historical Society, Third Edition 2003.)

US Army Corps Projects

Following is the summary of US Army Corps of Engineers projects in Yaquina Bay, as summarized on the Corps' Portland District Office web site:

One of the Corps' oldest navigation projects on Oregon's coast, Yaquina includes two jetties, several channels, turning and boat basins, and a breakwater.

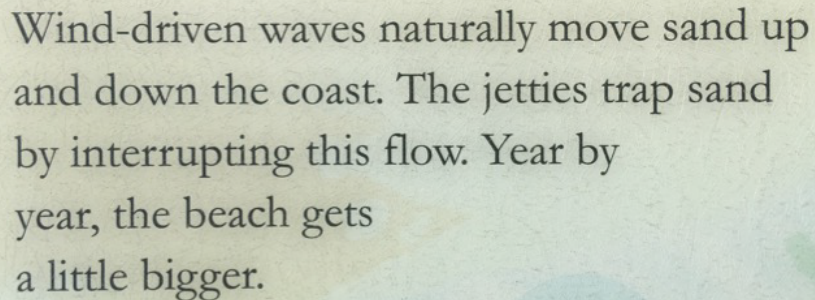
Yaquina's north jetty was constructed from 1889 to 1896 to a length of 7,000 feet, extended in 1966 and repaired in 1978, 1988 and 2001. The 8,600 foot south jetty was completed in 1896 and extended 1,800 feet in 1972. Since its construction five groins have been added to the south jetty as well as an 800-foot spur jetty. A breakwater for a small-boat basin on the north shore (a timber structure 2,650 feet long) was authorized in 1946, to protect commercial fishing boats. Congress last modified the project's authorization in 1958, allowing for extending the jetties: a 40-foot-deep, 400-foot-wide entrance channel; a 30-foot-deep, 300-foot-wide bay channel leading to a turning basin at Newport; an 18-foot-deep, 200-foot-wide, 4.5-mile-long channel from Newport to Yaquina; two small-boat basins at Newport; two small-boat turning basins at Newport; and a 1,300-foot-long breakwater to protect the Newport South Beach Marina.

Impact on the Pacific coast and Yaquina Bay

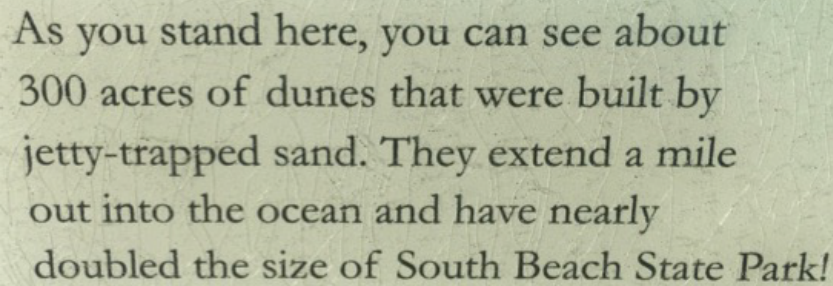
The jetties had a significant impact on water flowing at the mouth and into Yaquina Bay. Consequently, they changed the hydraulic processes along the nearby Pacific coast, and the jetties and other Corps projects changed the hydraulic processes in the lower Yaquina Bay from what would otherwise have occurred naturally.

The impact along the coast has been described by signs at South Beach State Park:

“The beach building of the jetties was just a side effect of their intended purpose of getting ships in and out of the harbor safely. Late nineteenth century sailing ships wishing to enter the bay had to navigate the constantly shifting sandbars along the river delta. A jetty was needed!”



Wind-driven waves naturally move sand up and down the coast. The jetties trap sand by interrupting this flow. Year by year, the beach gets a little bigger.



As you stand here, you can see about 300 acres of dunes that were built by jetty-trapped sand. They extend a mile out into the ocean and have nearly doubled the size of South Beach State Park!

In addition to moving along the coast, prior to construction of the jetties, some of the sand deposited at South Beach State Park might have entered Yaquina Bay, resulting in an estuary with a greater proportion of sand, and a smaller proportion of mud, in the tideflats of lower Yaquina Bay.

Historical shoreline locations as shown on a path at South Beach State Park



"1890 SHORELINE WAS HERE"



"1940 SHORELINE WAS HERE"



"1974 SHORELINE WAS HERE"

The jetties today, as viewed from below the north end of the Yaquina Bay Bridge.



Historic Newport Bayfront

Newport Bayfront, June 1923

(Oregon Historical Society collection. Photo Castle Studio, photographers)



Title: AERIAL VIEW OF FRONT STREET IN NEWPORT, OR., WATERFRONT BUSINESSES
HERE, YAQUINA BAY IN BACKGROUND

Filling tidelands to create usable upland

As part of the development of Newport, there was some dredging and substantial filling of tidelands in lower Yaquina Bay. The changes over time can be seen on recent aerial images with the 1912 tideland area shown as the area between the 1912 MHWL (mean high water line) and the 1912 MLWL (mean low water line). Major areas of fill, and major alteration to Yaquina Bay, occurred at South Beach and McLean Point. Additional areas of fill and dredging took place between the Newport Bayfront and McLean Point.

Filling these tidelands had a major impact on water flowing from the Pacific Ocean into Yaquina Bay, channeling the incoming tide water around the South Beach and McLean Point fill areas, instead of flowing more directly into tideflats at Idaho Flat and Sally's Bend.

The channeling of incoming tide water may have reduced the amount of sand flowing with the tide into Idaho Flat and Sally's Bend. Instead, more sand may be deposited in the navigation channel, where it is dredged out routinely and returned to the sea. If occurring, this dynamic would result in less sand in the entire lower Yaquina Bay estuary, resulting in tideflats with a greater proportion of mud than had been the natural condition before development of Yaquina Bay. This is a permanent alteration of the estuary including the ecology of the tideflats.

Sand collecting against breakwater at South Beach Marina



NOAA facility and dock at South Beach



Hatfield Marine Science Center facility is behind the South Beach Marina.



This area was built on fill placed on the tideland. The created upland now blocks the flow of incoming tidewater from going more directly into Idaho Flat. Idaho Flat is part of Management Unit 9 in the Yaquina Bay Estuary Management Plan.

South Beach Marina and Hatfield Marine Science Center
2021 Aerial Image with 1912 MHWL and MLWL Shown



The area between the Mean High Water Line (MHWL) and the Mean Low Water Line (MLWL) was surveyed as tideland in the 1912 tideland survey. The filled area includes the Hatfield Marine Science Center, the NOAA facility, and the South Beach Marina upland and parking area. An area of tideland was dredged for the South Beach Marina small boat basin.

Note: 1912 Mean High Water Line (MHWL) was shown on Lincoln County Survey C.S. 2326. Extensions of the 1912 MHWL and MLWL, shown above, are identified on Lincoln County survey maps of Section 17 and adjacent Section 16 (Township 11 South, Range 11 West, Willamette Meridian).

Port of Newport's Commercial Boat Dock
2021 Aerial Image with 1912 MHWL and MLWL Shown



The land-based support area was built on fill placed on tideland, between the 1912 High Water Line (HWL) and Low Water Line (LWL).

Embarcadero Condominium Complex
2021 Aerial Image with 1912 MHWL and MLWL Shown



1912 MHWL and MLWL drawn approximately as shown on Lincoln County survey map for Section 9 (Township 11 South, Range 11 West, Willamette Meridian).

International Terminal, Port of Newport
2021 Aerial Image with 1912 MHWL and MLWL Shown



1912 MHWL and MLWL drawn approximately as shown on Lincoln County survey map for Section 9 (Township 11 South, Range 11 West, Willamette Meridian).

McLean Point, with Port of Newport, Rondys Inc.,
And Northwest Natural Gas Co. Properties
2021 Aerial Image with 1912 MHWL and MLWL Shown



1912 MHWL and MLWL drawn approximately as shown on Lincoln County survey map for Section 9 (Township 11 South, Range 11 West, Willamette Meridian).

NW Natural Storage Tank at McLean Point



This NW Natural storage tank and other facilities at McLean Point were built on fill placed on the tideland. The created upland now blocks the flow of incoming tidewater from going more directly into Sally's Bend. Sally's Bend is Management Unit 10 in the Yaquina Bay Estuary Management Plan.

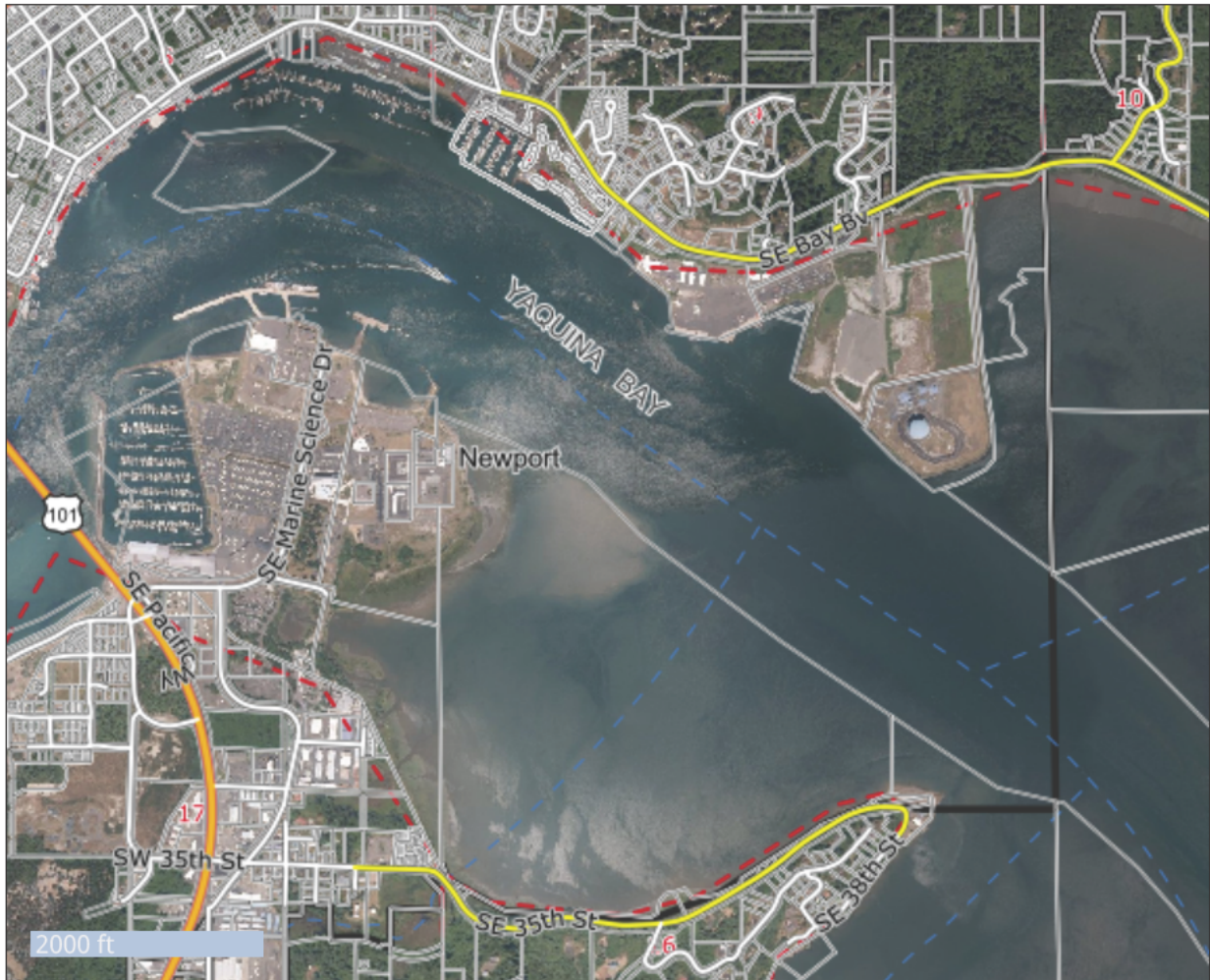
Entrance to Yaquina Bay, 2021 aerial image



After construction of the jetties that extend into the Pacific Ocean, and after extensive sand trapped north of the north jetty and south of the south jetty for more than a century, the landscape at the entrance to Yaquina Bay looks very different now than it was shown on the U.S. Coast Survey done in 1868 and the official U.S. Government land survey done in 1870.

The red dashed line is the location of the original shoreline as surveyed in the official U.S. Government land survey done in 1870.

Portion of lower Yaquina Bay, 2021 aerial image



The area of tideland filled at South Beach, now used for the South Beach Marina and the Hatfield Marine Science Center, and the area of tideland filled at McLean Point used for the NW Natural storage tank and other facilities, is substantial. Both fill areas significantly reduced the width of Yaquina Bay at their respective locations. Both fill areas interrupt direct water flows of ocean water into Idaho Flat and Sally's Bend, re-direct the inflowing and outflowing tides, and impact the previously more natural, direct interaction between these tideland areas and the Pacific Ocean. Besides reducing sand flowing into Idaho Flat and Sally's Bend, and affecting the substrate in these areas, there may be other possible, but unidentified, impacts.

The red dashed line is the location of the original shoreline as surveyed in the official U.S. Government land survey done in 1870.

National Oceanic & Atmospheric Administration (NOAA), Newport support of Pacific Fleet

NOAA located a major operations center, in support of its Pacific fleet of research vessels, in Newport near the Hatfield Marine Science Center in South Beach. From the NOAA web site:

Marine Operations Center - Pacific



The NOAA Marine Operations Center Pacific (MOC-P) in Newport, Oregon serves as the homeport for two NOAA ships on the West Coast and provides logistical, engineering, electronics, maintenance and administrative support to all the ships in NOAA's Pacific fleet. This includes the following NOAA research and survey ships:

- [*Bell M. Shimada*](#) (homeported in Newport, Oregon)
- [*Fairweather*](#) (homeported in Ketchikan, Alaska)
- [*Oscar Dyson*](#) (homeported in Kodiak, Alaska)
- [*Rainier*](#) (homeported in Newport, Oregon)
- [*Reuben Lasker*](#) (homeported in San Diego, California)

MOC-P is one of three marine operation centers for NOAA's fleet. The fleet currently includes 15 multi-purpose oceanographic research vessels, fisheries survey vessels, and hydrographic survey vessels.

The ships in NOAA's Pacific fleet collect data essential to protecting marine mammals, coral reefs and historic shipwrecks, managing commercial fisheries, understanding climate change, and producing nautical charts that help keep mariners safe.

NOAA ships also deploy and help maintain buoys that gather oceanographic and weather information and warn of tsunamis. The center and ships are an operational component of NOAA Marine and Aviation Operations, which is staffed by civilians and NOAA Corps officers. The [NOAA Corps](#) is one of the eight uniformed services of the United States.

Oregon State University (OSU) and other research vessels that use Newport as a port

OSU's Ship Operations Center has a large dock, adjacent to the NOAA dock and next to the Hatfield Marine Science Center, that is used as home port for OSU research vessels as well as a port for visiting research vessels in the U.S. academic research fleet in the Pacific Ocean. OSU's R/V Oceanus is being replaced by a new, state-of-the-art research vessel, R/V Taani, designed by OSU's College of Earth, Ocean and Atmospheric Science and now under construction.



Photo of an oyster farmer and his grandson after delivering oysters to sailors on R/V Sikuliaq.

R/V Sikuliaq is 261-foot oceanographic research vessel operated by the University of Alaska, used for scientific research in the Pacific Ocean and polar regions, owned by the National Science Foundation, and part of the University-National Oceanographic Laboratory System. This research vessel and other university-operated research vessels in the University-National Oceanographic Laboratory System use Newport as a port.

Sherri Marineau

From: Mark Arnold [REDACTED]
Sent: Friday, April 19, 2024 2:21 PM
To: Public comment
Subject: Additional file to accompany "Written comments submitted for Newport Planning Commission Regular Session, 4/22/24"
Attachments: Historical Information about Management Unit 9.pdf

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

Hi. This email follows up the email just sent to submit written comments to include in "Agenda Item 3 Citizen/Public Comment" at the Planning Commission Regular Session to be held on April 22, 2024.

Attached is the sixth, and last, file listed in the previous email:

- Historical Information about Management Unit 9

Thank you very much for including this information.

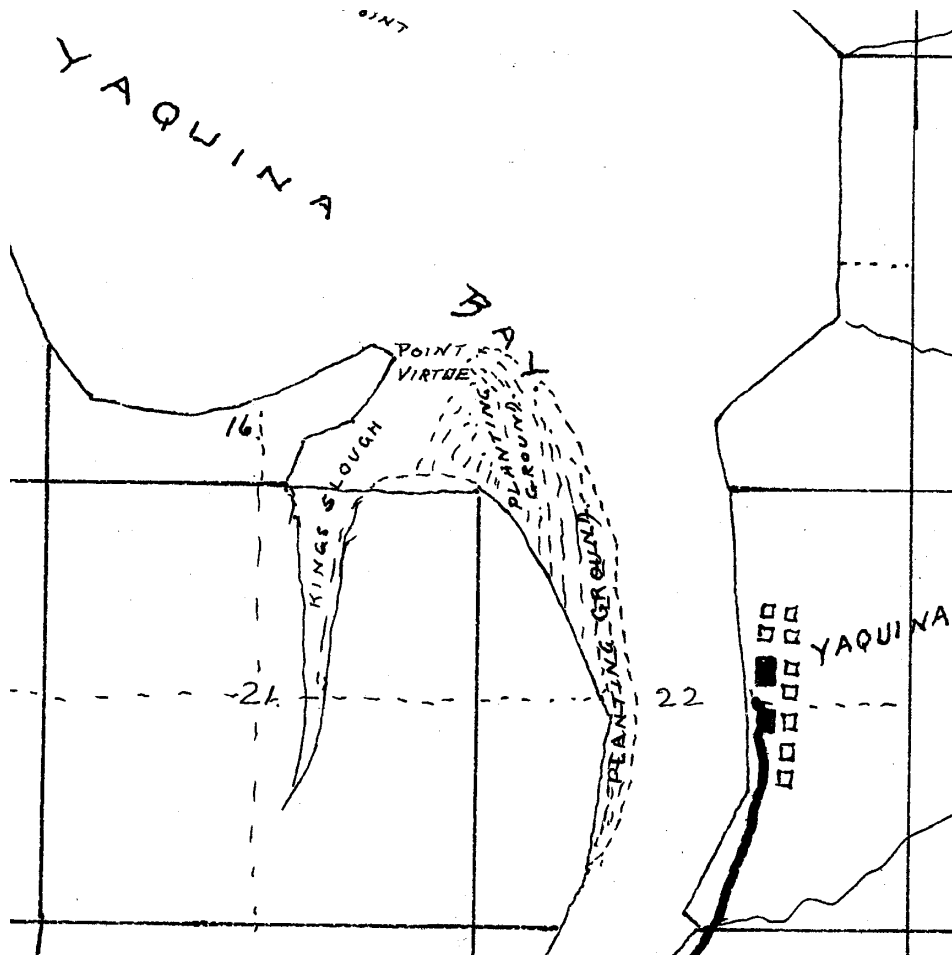
Mark Arnold
[REDACTED]

HISTORICAL INFORMATION ABOUT MANAGEMENT UNIT 9
(Idaho Flat, Kings Slough, and Tideland Upstream from Kings Slough)

Oyster farming

In 1908, oysters were grown commercially at the mouth and upstream from Kings Slough, as shown on a “Map of the Survey of the Oyster Grounds on Yaquina Bay” prepared by Morris Wygant, Civil Engineer, City Engineer, and U.S. Deputy Surveyor. His note on the map said the survey was approved by the Yaquina Bay Oystermen’s Association, the Governor of Oregon, and the State Board of Fisheries. It was filed as Lincoln County Survey C.S. 3208.

Detail from Wygant Map of the Survey of the Oyster Grounds on Yaquina Bay, 1908
(Filed as Lincoln County Survey C.S. 3208)



Note that oyster “planting grounds” are shown at the mouth of Kings Slough and adjacent to the mouth of Kings Slough. Because oysters are “planted” in these oyster beds, these are not natural oyster beds, but are cultivated oysters. The natural oyster beds were located further upstream in the bay, from Oneatta Point upstream east of Riverbend to Boones Point.

State grant of tideland into private ownership as incentive for construction of railroad from Willamette Valley to Yaquina Bay

The publication Oregon Estuaries was published in June 1973 by the State of Oregon, State Land Board (Tom McCall, Governor; Clay Myers, Secretary of State; James A. Redden, Treasurer, comprising the Board), Division of State Lands. The Oregon Estuaries publication gave the following explanation about ownership of tideland in the Alsea Bay and Yaquina Bay estuaries:

“In 1874, the Oregon Legislature granted the Alsea Bay and Yaquina Bay tidelands to the Willamette Valley and Coast Railway Company. In return for the tideland and other conveyances, a rail line between Corvallis and Newport was completed. The railroad changed hands a number of times prior to 1900 and finally went into bankruptcy. The tideland is now held by the counties, local ports, and private owners.” [Note: any tideland held by the County at the time of this publication may have been subsequently conveyed.]

Portions of the relevant Oregon laws are summarized below.

- Section 1 of the 1874 Act (approved October 24, 1874) said, in part, “That there is hereby granted to the Willamette Valley and Coast Railroad Company, or its assigns, all the tide and marsh lands situated in said County of Benton...” As provided by the Act, the grant was subject to the terms and conditions of the Act for “the construction of a railroad line from Corvallis, in Benton county, Oregon, to tide water on Yaquina Bay in said county...” (The descriptive title of the Act was “AN ACT to Provide for the Construction of the Willamette Valley and Coast Railroad.” Oregon General Laws for 1874, starting on page 51.)
- The 1878 Act (approved October 14, 1878) amended some of the terms and conditions of the grant and extended the deadline for construction of the railroad line. (The descriptive title of the 1878 Act was “AN ACT to amend an act to provide for the construction of the Willamette Valley and Coast Railroad, approved October 24, 1874.” Oregon General Laws for 1878, starting on page 3.)
- Section 3 of the 1885 act (approved February 8, 1885) said, in part, “That the title of said railroad company to lands mentioned in said acts [the 1874 and 1878 acts] be, and the same is ratified and confirmed...” However, the tide and marsh lands granted to the railroad excluded tide and marsh lands where land patents had been issued by the United States or the State of Oregon, and excluded tide and overflowed lands granted to the City of Newport. (The descriptive title of the 1885 Act was “AN ACT to re-enact and amend an Act approved October 24, 1874, entitled an Act to provide for the construction of the Willamette Valley and Coast Railroad as amended by the Act approved October 14, 1878, entitled ‘An Act to amend an Act entitled an Act to provide for the Construction of the Willamette Valley and Coast railroad, approved October 24, 1874,’ and to confirm the Rights of the said Railroad Company under the said Acts.” Oregon General Laws for 1885 starting on page 5.)

There were three components of the grant of tidelands provided in Section 3 of the 1885 Act:

- Grant of tidelands to the railroad that were not granted previously by United States or State of Oregon land patents, nor granted to the City of Newport.
- State of Oregon confirming and, if necessary, granting ownership of tidelands previously granted by United States or State of Oregon land patents.
- Grant of tidelands to the City of Newport. From recent aerial maps, the tide and overflow lands granted to the City of Newport appear to include significant portions of the current Bayfront, between the U.S. Coast Guard Station and the Port of Newport commercial boat docks.

Lincoln County was established on February 20, 1893.

In 1912, the Oregon Supreme Court ruled that the State of Oregon tide land grants were valid as confirmed by Section 3 of the 1885 Act. (Oregon Supreme Court decision in *Corvallis & Eastern R. Co. v. Benson*, 61 OR 359, 121 Pac. 418.). In the Court's decision, it referred to its understanding of tidelands as "tidelands laid bare, and anon flooded by the sea as it ebbs and flows..."

In its decision, Oregon Supreme Court decreed:

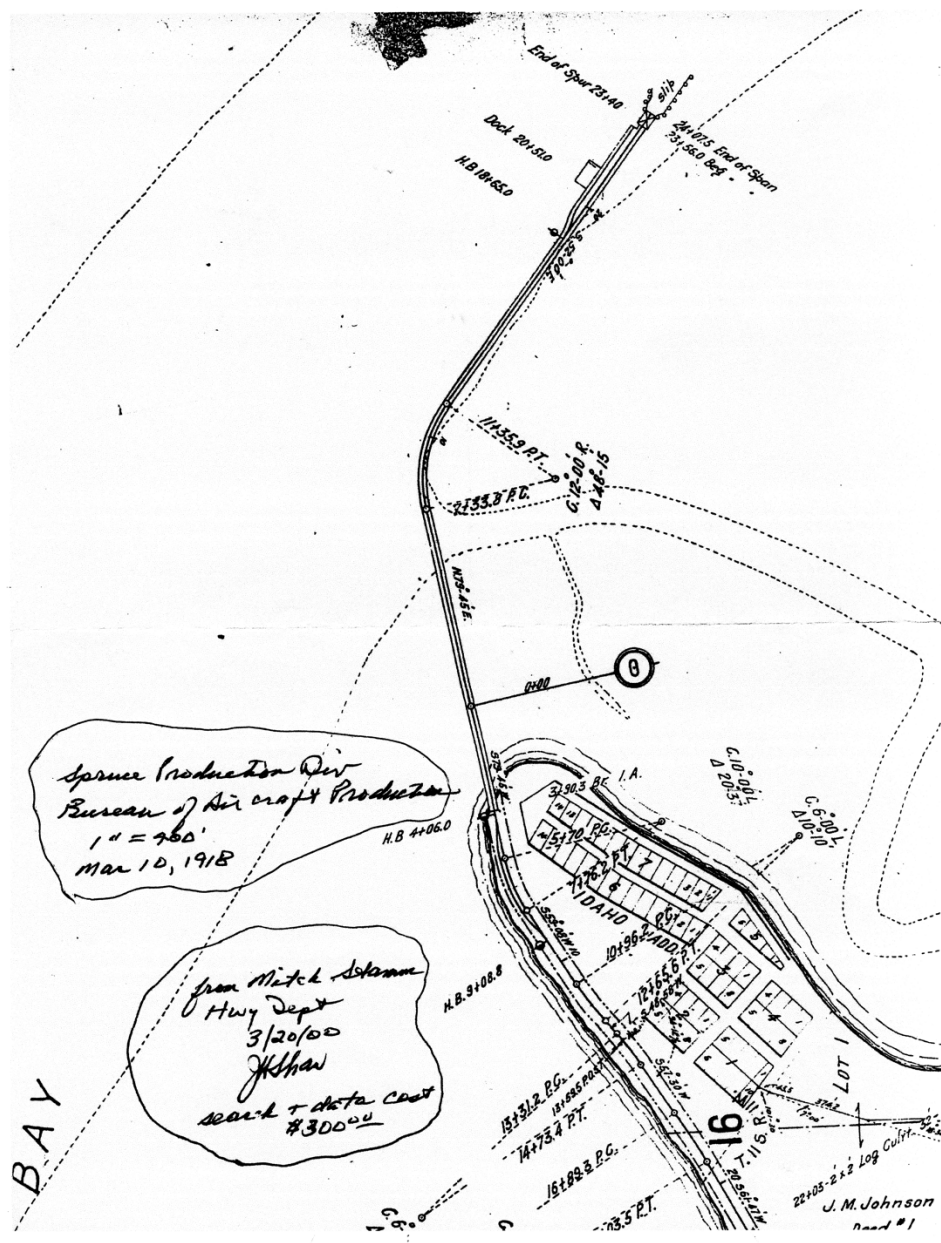
- "The State under the constitution, can no more exercise authority over property not its own, except through some recognized process, such as the right of eminent domain, than an individual." (61 OR 382)
- "Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation...". (61 OR 382)
- "Having once deliberately granted away the title to the land in question, the State cannot recall the grant, except by the exercise of eminent domain, with provisions for compensation, any more than an individual can deliberately avoid his free act and deed. Neither can the legislature arbitrarily take the property of one individual and give or sell it to another." (61 OR 383)

Lincoln County actions

Based in part on a Yaquina Bay tideland survey done in 1912, Lincoln County recorded deeds for tideland property granted by the 1885 Act as confirmed by the 1912 Oregon Supreme Court Decision. In addition, deeds were recorded for land patents containing tideland.

Building railroad to South Beach terminal at Idaho Point

During World War I, railroads were built in Lincoln County to facilitate the transportation of logs used for construction to support America's role in the war effort. In particular, Sitka spruce trees were harvested to be used in the construction of airplanes. Douglas-fir and other trees were harvested to use for other construction. One railroad line (Spruce Production Railroad No. 12) was also called the Alsea Southern because it connected Yaquina Bay to Alsea Bay and south. It brought logs to Idaho Point at South Beach where there was a pier extending 2,340 feet into the tide flats and the edge of Yaquina Bay, where there was a log dump. A map dated 1918 shows the railroad line extending from Idaho Point into the tide flats and Yaquina Bay.





TEN CARS OF LONG-LENGTH SITKA SPRUCE AND OLD GROWTH YELLOW DOUGLAS FIR LOGS AT THE DUMPING WATERS AT SOUTHBEACH, OREGON, LOOKING OUTWARD FROM THE SHORE WITH LOCOMOTIVE PUSHING THEM INTO PROPER PLACE FOR DUMPING



THE ABOVE VIEW SHOWS THE FINAL DUMPING SPOT AT OR NEAR THE END OF THE GREAT DOCK WHERE THE LOGS ARE UNLOADED THAT COME FROM HEAD-QUARTERS CAMP 1



THIS VIEW SHOWS THE LOGS AT THE DUMP FROM THE OUTER END WHERE THEY ARE THROWN INTO YAQUINA BAY AND ALSO THE UNLOADING SHED AND ELEVATED "PILE" WHICH CARRIES THE LINE ABOVE THE LOGS

Photos from Pacific Spruce Corporation and Its Subsidiaries, reprint of 1924 publication published by Lincoln County Historical Society

After World War I, the railroad was transferred into private ownership and continued to operate until 1935 or shortly afterwards. In 1935, a train engine accidentally ran off the end of the pier into the edge of the main channel of Yaquina Bay and was never recovered.

No.	Type	Builder	C/N	Date	Remarks	Year
#7	2-4-2T	Baldwin?	9743	1/1889	a) Southern California Motor Road #15 b) Southern Pacific R.R. Co. #15 c) Independence & Monmouth R.R. Co. #15 d) Sunset Lbr. Co. e) Coast Range Lbr. Co. #15 f) Manary Logging Co. #7 g) C. D. Johnson Lbr. Co. #7 Leased to Baldersee-Ritner Logging Co. 1927-1930. Ran off end of log dump into Yaquina Bay in 1935 and was never recovered.	1905

Source: Steam Towards the Sunset, the Railroads of Lincoln County, by Lloyd M. Palmer, Page 188, published by Lincoln County Historical Society

Lincoln County selling tideland to private owners

In subsequent years, many tideland parcels were transferred to Lincoln County ownership as a result of tax delinquencies, and Lincoln County sold them to private owners.

A significant number of tideland parcels conveyed previously by grant to the railroad, along with other land with property tax delinquencies, were sold to Lincoln County on January 5, 1922, following “a public sale of real estate ... pursuant to a real estate tax judgment and decree of the Circuit Court of the State of Oregon for the County of Lincoln.” Lincoln County paid for the tideland and other property, and the conveyance was recorded on January 9, 1922, in Lincoln County Deed Book 41 on pages 463 through 480.

The tideland parcels conveyed to Lincoln County in 1922 were then sold at auction to private owners in 1923.

On June 16, 1923, a Deed (A 3103) was recorded for the sale of two large tideland parcels, one in Section 15 and the other in Section 16, conveyed by Lincoln County to the Pacific Spruce Corporation (Lincoln County Deed Book 43, Pages 420-421). After subsequent property conveyances, the parcel in Section 15 and a portion of the parcel in Section 16 are still owned by private owners, while over 250 acres of tideland in Section 16 is now owned by the Oregon Board of Higher Education and considered part of the OSU Hatfield Marine Science Center campus.

On June 20, 1923, a Deed (A 3117) was recorded for the sale of two tideland parcels, a very small tideland parcel in Section 21 and a larger parcel in Section 22, conveyed by Lincoln County to the Pacific Spruce Corporation (Lincoln County Deed Book 43, Pages 436-437). After subsequent property conveyances, these parcels are still owned by private owners.

Twenty years later, on October 20, 1943, as a result of a subsequent tax delinquency, Lincoln County Deed (A 51871) was recorded for the sale of property in Section 21, containing about 63 acres of tideland and 13 acres of upland, by Lincoln County to a private owner. This property is still owned privately.

At the time of these sales of tideland in 1923 and 1943, “Lincoln County was governed by a commissioner’s court, which consisted of two commissioners and a county judge.” (Lincoln County History, Oregon Secretary of State web site.). The sales were made with judicial approval.

Logging and use of Kings Slough for log dump and log storage

In 1951, construction was done in King Slough for a log dump and log storage facility that required extensive dredging and then dumping of the dredged material into King Slough. Following is an excerpt from the U.S. Army Corps of Engineers, Portland District, Public Notice dated November 7, 1951:

PUBLIC NOTICE

Application has been made to the Department of the Army by Mr. H. P. Effenberger, 401 Shelton Street, Dalas, Oregon, for a permit to construct a log dump, to drive piling for a log storage pocket and log raft moorage, and to dredge and dump in King Slough of Yaquina Bay near Newport, Oregon as follows:

1. The log dump will be located approximately 2400 feet upstream (south) from Hinton Point on the West side (left bank) of the slough and will consist of a pile bulkhead and riprapped fill. The channelward limit of the log dump will be approximately 20 feet from the mean high water line.

2. A log storage facility, located immediately channelward of the log dump, beginning 125 feet upstream (north) of the dump and extending downstream (south) approximately 378 feet. The channelward limit of the piling will be approximately 165 feet from the face of the dump.

3. Dredge said log storage facility to a depth of not more than 6 feet below mean lower low water, the dredged material to be deposited landward from the mean lower low water line.

4. Dredge a 50 foot relocation channel for small boats on the east side of the proposed log storage facility. Said relocation channel to be approximately 1000 feet long and to be dredged to a depth of not more than $4\frac{1}{2}$ feet below mean lower low water, the dredged material to be deposited landward from the mean lower low water line.

5. A log raft moorage consisting of a single row of piles, spaced at 60 foot intervals, running in an easterly direction from the easterly limits of the relocation channel to the mean high water line on the east or right bank.

Maps and plans for the work are on file and may be seen in this office.

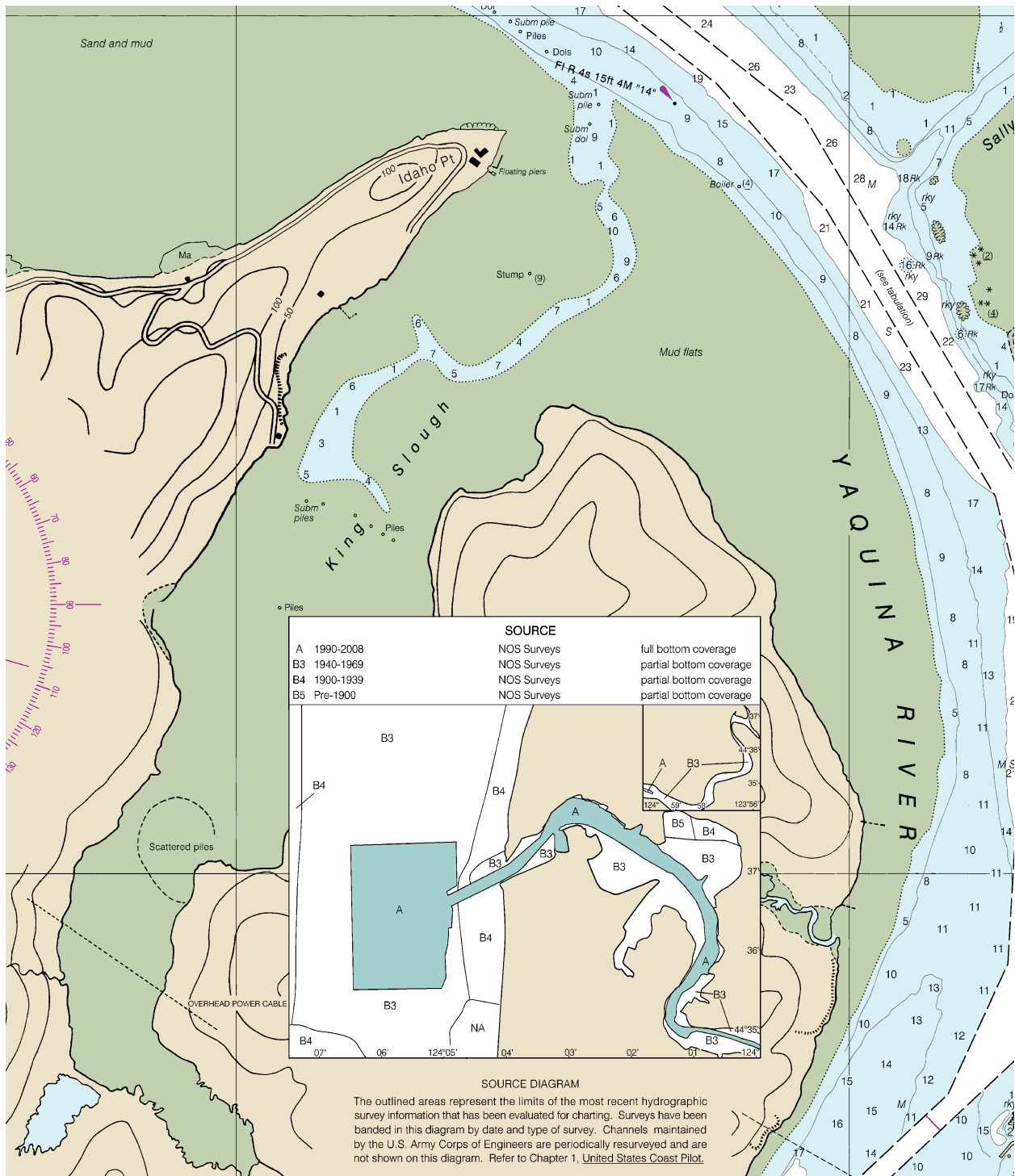
When this plan was implemented, over 30,500 cubic yards of material was dredged from the tide flats and dumped elsewhere in Kings Slough. In addition, a row of pilings was installed that extended across most of Kings Slough.

Logging

In the mid-twentieth century, additional logging was done on some forest property adjacent to Kings Slough where logs were dragged down the hill into Kings Slough by metal cables. Metal cables used for this purpose have been observed with diameters in the range of 7/8 inch to 1-3/8 inch. This type of logging most likely occurred in the 1950s and 1960s. When each large log was pulled down the hillside, it brought with it a substantial amount of soil, with much of this soil probably dragged into Kings Slough along with the logs. Scraping the hillsides of soil, along with dredging and dumping dredged material into the slough, resulted in a lot of loose mud in high mud flats. These practices may have significantly altered the previous natural characteristics of Kings Slough.



Excerpt from NOAA Navigation Chart for Yaquina Bay and Yaquina River
Kings Slough and Vicinity



Comments: Past alterations include piles in Kings Slough, a dolphin and pile at the mouth of Kings Slough, and a “boiler” at the edge of the main channel of Yaquina Bay. The “boiler” may be the boiler from the train engine that ran off the end of the railroad pier in 1935. The piles are evidence of previous, extensive use of Kings Slough for log storage.

Private campground on west side of Kings Slough

In 1947, Ivan Leek bought property on the west side of Kings Slough. He and his wife subsequently opened a campground with a boat ramp and small dock. The current owners of the property still use the boat ramp as a private boat ramp.

LEEK'S CAMPGROUND

(IVAN and DEE LEEK)

U-Launch • Tents Permitted

2 Blocks From South End of Yaquina
Bridge — Make Left Turn Past Alligator
Tavern. Go 1 Block, Turn Right. Go 1 Mile,
Pass Steel Buildings — 1/8 Mile.

PHONE 867-3137

Boat Ramp Used by Current Owners



PUD high voltage power line

High voltage power transmission lines to bring power to PUD's South Beach facility were built across the southern portion of Kings Slough.







Idaho Point Marina

The 1982 Yaquina Bay Estuary Management Plan allowed continued operation of a marina at Idaho Point and dredging in the mud flats to provide access from the main channel of Yaquina Bay. The docks at the marina were not maintained and fell into disrepair.



Photos of dilapidated docks in September 2016. They were removed in 2018. The boat ramp remains, is not used, but could be repaired and used as a private boat ramp.

Dock on east side of Kings Slough

In 1996, Lincoln County, the State Department of Land Conservation and Development, and the U.S. Army Corps of Engineers granted approvals for a dock to be installed on the east side of Kings Slough (tax lot 11-11-21-00600). According to the application and supporting documents that were reviewed and approved, the dock replaced a previous dock built in 1912 that was damaged by a storm on 12/24/1994.

The U.S. Army Corps issued Permit No. 96-686 on August 14, 1996, subject to concurrence by the Oregon Department of Land Conservation and Development (DLCD). DLCD provided its concurrence on September 13, 1996.

Excerpt from Lincoln County Department of Planning and Development
Letter of Approval Dated May 16, 1996

We have reviewed the Affidavit submitted by Charles A. Denison, dated April 29, 1996, and the enclosed Exhibits (A) through (E) documenting the history of a private dock located on property identified on Lincoln County Assessor's map 11-11-21 as tax lot #600. As a result of this review, the Lincoln County Planning Division is prepared to recognize a "dock" on this property as a lawful nonconforming use.

Excerpts from Department of Land Conservation and Development
Letter of Concurrence Dated September 13, 1996

Findings

- The statewide planning goals do not apply directly in this case. The goals are implemented through the applicable local comprehensive plan and ordinances.
- Lincoln County has an acknowledged comprehensive plan. The County reviewed the proposed project and determined that the project is consistent with the local comprehensive plan and implementing ordinances.
- As less than 50 cy of fill or removal in waters of the State is proposed, the project is not subject to the Oregon Removal - Fill Law.
- The Department of Environmental Quality (DEQ) pre-certified Nationwide permit #3 as being in compliance with the Oregon Water Quality Standards as required under Section 401 of the federal Clean Water Act.

DLCD therefore concurs with the applicant's certification that the proposal is consistent with the Oregon Coastal Management Program.

U.S. Army Corps permit conditions require that any authorized structure shall be properly maintained. By 2016, it was apparent to the new owners of the property that repairs needed to be made to the dock. The U.S. Army Corps granted approval in 2017 for the deck and ramps to be replaced pursuant to Nationwide Permit No. 3 Maintenance (Permit NWP-1996-1). This work required no fill, no dredging, and no new alterations to the estuary. Instead of letting the old deck and ramps deteriorate further, potentially damaging the estuary, it was preferable to replace them with newer ones meeting higher environmental standards. The environmental improvements included using encased Styrofoam floats, so Styrofoam could not break off and pollute the waterway, and using deck and ramp grating that allows sunlight to pass through to reach the surface of the water. The Corps considered this work to be a major repair.



Oregon Department of Agriculture (ODA) approved area for growing and harvesting shellfish for human consumption

After extensive water quality testing, the Oregon Department of Agriculture (ODA) categorized the northern and middle sections of Kings Slough, including the area at the mouth of Kings Slough, as an “Approved” area for growing and harvesting shellfish for human consumption. As a result of having excellent water in the growing area and meeting all other requirements, ODA granted licenses to Oyster Bluff Shellfish (a small, family-owned oyster farm) using tideland owned by two other family-owned LLCs.

ODA Approved Area for Growing and Harvesting Shellfish for Human Consumption



ODA Issued Licenses

Form 1014 Rev 04/19
 OREGON DEPARTMENT OF AGRICULTURE
 635 CAPITOL ST NE, STE 100
 SALEM, OR 97301-2532
 (503) 986-4550

POST IN A CONSPICUOUS PLACE

OYSTER BLUFF SHELLFISH LLC
 E JORDAN, B ARNOLD AND M ARNOLD
 1095 SE 36TH ST
 SOUTH BEACH OR 97366

BUSINESS LOCATION

OYSTER BLUFF SHELLFISH LLC
 1095 SE 36TH ST
 SOUTH BEACH OR 97366

<u>LICENSE NUMBER</u>	<u>DATE ISSUED</u>	<u>DATE EXPIRES</u>	<u>LICENSE</u>
AG-L1039991SDSW	12/22/2023	12/31/2024	Shellfish Dist., Shipper, Wholesaler Shellfish Number: OR490SS
AG-L1039992SG	12/22/2023	12/31/2024	Shellfish Grower Shellfish Number: OR490GR

Printed: 12/26/2023

Memorandum

To: Planning Commission
From: Derrick Tokos, Community Development Director 
Date: April 18, 2024
Re: Continued Public Hearing for File #1-VAR-24, Harbor Freight Sign Variance

Attached is an April 11, 2024 email from Tracey Diehl, representing Harbor Freight, indicating that she has had an opportunity to coordinate with her client and that they have nothing further to submit. No new information has been submitted from any other party. Materials included in the meeting packet are the same documents that were available at the April 8, 2024 hearing.

At the beginning of the hearing, the Commission Chair should read through the hearing script to disclose any site visits or ex-parte contacts that have occurred since the date of the initial public hearing.

Attachments

Email from Tracey Diehl, dated 4/11/24

Derrick Tokos

From: Tracey Diehl <tracey@expeditethediehl.com>
Sent: Thursday, April 11, 2024 3:04 PM
To: Derrick Tokos
Cc: Joseph Lease; Beth Young
Subject: RE: Staff Report for Harbor Freight

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Derrick,

I don't have additional information to submit, I will be prepared to be at the meeting on the 22nd. I will attend virtually. I have gotten a response from Harbor Freight.

Best Regards,
 Tracey Diehl, Owner

PLEASE NOTE : I will be on vacation from 4/10 to 4/24 with minimal access to email during this time. Someone will be checking my email for new permit requests. Code checks should always go to codes@expeditethediehl.com

<https://www.expeditethediehl.com/about>

Expedite The Diehl LLC
 6487 Hilliard Drive
 Canal Winchester, OH 43110
 614-828-8215
www.ExpediteTheDiehl.com

CONFIDENTIAL NOTICE: This e-mail and any files transmitted with it are confidential and intended only for the individual(s) named above. If you have received this e-mail in error, please notify the sender immediately by e-mail. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake. Please do not forward to anyone other than the named addressee. If you have received this e-mail by mistake, please notify the sender immediately by e-mail. Psalm 25:21 May integrity and uprightness protect me, because my hope, Lord, is in you.

From: Derrick Tokos <D.Tokos@NewportOregon.gov>
Sent: Tuesday, April 9, 2024 12:01 PM
To: 'Tracey Diehl' <tracey@expeditethediehl.com>
Cc: Joseph Lease <J.Lease@NewportOregon.gov>; Beth Young <B.Young@NewportOregon.gov>
Subject: RE: Staff Report for Harbor Freight

Hi Tracey,

Yes, the hearing was continued to Monday, April 22nd at 7:00pm. Any new information or arguments you wish to present to our Planning Commission will need to be submitted by 5:00pm PST on Wednesday April 17th. Email submittals are fine. I am also available for a call if that would be helpful.

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: Tracey Diehl <tracey@expeditethediehl.com>

Sent: Monday, April 8, 2024 7:58 PM

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

Cc: Joseph Lease <J.Lease@NewportOregon.gov>; Beth Young <B.Young@NewportOregon.gov>

Subject: RE: Staff Report for Harbor Freight

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

Derrick,

Please confirm hat we are tabled to 4/22 at my request.

Best Regards,
Tracey Diehl, Owner

PLEASE NOTE : I will be on vacation from 4/10 to 4/24 with minimal access to email during this time. Someone will be checking my email for new permit requests. Code checks should always go to codes@expeditethediehl.com

<https://www.expeditethediehl.com/about>

Expedite The Diehl LLC
6487 Hilliard Drive
Canal Winchester, OH 43110
614-828-8215
www.ExpediteTheDiehl.com

CONFIDENTIALITY NOTICE: The information contained in this communication is confidential and is intended only for the use of the recipient(s) named above. You are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, to any other party, is strictly prohibited. If you have received this communication in error, please return it to the sender immediately and delete the original message and any copy of it from your computer system. If you have any questions concerning this message, please contact sender. If this email was sent to you in error, do not forward it to others, or include others in your email traffic to reply. Dissemination and/or distribution of this email to anyone other than the sender is prohibited unless you are the direct owner of this information. Psalm 25:21 May integrity and uprightness protect me, because my hope, Lord, is in you.

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

Sent: Thursday, April 4, 2024 8:12 PM

To: 'Tracey Diehl' <tracey@expeditethediehl.com>

Cc: Steve Bayton <SBayton@harborfreight.com>; Pietro D'Agostino <pietro@urbansigngroup.com>; Joseph Lease <J.Lease@NewportOregon.gov>; Beth Young <B.Young@NewportOregon.gov>

Subject: Staff Report for Harbor Freight

Hi Tracey,

Here is a link to the staff report for Monday evenings variance

hearing. https://www.newportoregon.gov/citygov/comm/pc/agendas/04-08-2024_PC_Reg_Session_Meeting.pdf

The meeting starts at 7pm and you can attend in-person or by video-conference. I included the video-conference link below. I'll be out of the office tomorrow, but will be in on Monday if you have questions.

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

Join Zoom Meeting
<https://newportoregon.zoom.us/j/82946546330>

Meeting ID: **829 4654 6330**

One tap mobile
+16699006833,,82946546330# US (San Jose)
+17193594580,,82946546330# US

Dial by your location

- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)

Meeting ID: 829 4654 6330

Find your local number: <https://newportoregon.zoom.us/u/kcezKq9fMv>

Case File: 1-VAR-24
 Date filed: March 8, 2024
 Hearing Date: April 8, 2024

PLANNING STAFF REPORT

- A. **APPLICANTS & OWNERS:** KSD Properties, LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative).
- B. **REQUEST:** Approval of a Type III variance to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is an 89.4% variance to the standard.
- C. **LOCATION:** 615 North Coast Highway (Lincoln County Assessor's Map 11-11-05-CD, Tax Lot 2400). Lot 1, Block 16, NYE AND THOMPSON'S ADDITION, in the City of Newport, County of Lincoln and State of Oregon. EXCEPTING THEREFROM the Easterly 10 feet and the Westerly 50 feet of the Southerly 200 feet thereof.
- D. **LOT SIZE:** Roughly 1.77 acres per Assessor's Map.
- E. **STAFF REPORT:**
1. **REPORT OF FACT:**
 - a. **Plan Designation:** Commercial.
 - b. **Zone Designation:** C-1/"Retail and Service Commercial."
 - c. **Surrounding Land Uses:** Surrounding uses include highway oriented commercial to the north, east, and south. A retail bicycle shop and residential uses border the property on the west.
 - d. **Topography:** The property is gradually sloped.
 - e. **Existing Structures:** A retail commercial building with wall signs on the south and east facing facades and a freestanding monument sign oriented toward US 101 traffic.
 - f. **Utilities:** All are available to the subject property.
 - g. **Past Land Use Actions:**

File No. 14-CUP-78. Conditional Use Permit authorized conversion of a former grocery store into a lumber yard with outdoor storage.

h. **Notification:** Affected property owners within 200 feet, applicable City departments, and other agencies were notified on March 13, 2024 (Attachment "F"). The public hearing notice was published in the Lincoln County Leader on March 27, 2024.

i. **Attachments:**

Attachment "A" – Application Form

Attachment "B" – Applicant's Narrative

Attachment "C" – Wall Sign Permit and Schematic Drawings

Attachment "D" – Aerial Image of Property with Sign Locations

Attachment "E" – Property Sign Inventory

Attachment "F" – Public Hearing Notice

Attachment "G" – Municipal Code Chapter 10.10 (Sign Regulations)

Attachment "H" – Email from City Attorney and Linked Summary of 1973 Clackamas County v. Emmert Court of Appeals Case

Attachment "I" – Final Order and Findings for File No. 2-VAR-23

Attachment "J" – Final Order and Findings for File No. 3-VAR-18

Attachment "K" – Final Order and Findings for File No. 1-VAR-15

Attachment "L" – 2020 Wall Sign Permit for Corvallis Harbor Freight Store

2. **Explanation of the Request:** The applicant notes that this variance is being sought after a permit was erroneously issued by the City for the wall sign facing US 101. A copy of the permit is enclosed as Attachment "C". The wall sign has a display area of 282.78 sq. ft, which sign exceeds the maximum allowed sign area. The maximum allowed sign area is 200 sq. ft (ref: NMC 10.10.085(G)).

The applicant points out that the wall sign has been installed and City staff discovered during final inspection that the sign is over the allowable square footage. The applicant notes that they are seeking a variance to NMC 10.10.085(G) limitation to allow a wall sign that is 282.78 sq. ft. in size, a 41.4% (82.78 sq. ft.) increase over the 200 square foot limitation.

The 200-foot sign area limitation in NMC 10.10.085(G) is the maximum cumulative display area permitted for non-exempt signs along a street frontage. There are two signs along the US 101 frontage, the wall sign cited by the applicant and a freestanding pole sign. A sign permit is required to replace signs on freestanding structures, such as a pole sign (NMC 10.10.035(A)). Harbor Freight does not have a permit for the sign that it has temporarily placed on the pole structure. Their sign contractor informed the City of Harbor Freight's intent to install a sign within the pole sign cabinet after City staff identified the problem with the wall size permit. The contractor plans to install an LED back lit sign cabinet on the pole with lettering that matches the wall sign. It is depicted as Sign "C" on the sign inventory that is included in the application (ref: Attachment "E"). This constitutes an additional 96 sq. ft. of display area, since only one side of a free-standing sign applies against the sign allowance (NMC 10.10.085(B)). When accounting for the freestanding sign, the

variance seeks an additional 178.78 sq. ft. of display area or an 89.4% deviation from the standard.

Exempt and partially exempt signs are listed under NMC 10.10.055 and 060. Neither are in play with this application. Harbor Freight obtained a sign permit for the wall sign facing NW 6th Street. That sign complies with the 200 sq. ft. per street frontage display area limitation, as it is 159.34 sq. ft. in size. It is not subject to the variance request.

Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

3. **Evaluation of the Request:**

a. **Written Comments:** As of April 3, 2024, the Community Development Department has received no comments related to the application.

b. **Applicable Criteria (Newport Municipal Code Section 10.10.130):**

Section 10.10.130(A) states that a variance to increase the size of a sign(s) must be the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

c. **Applicable Criteria (Newport Municipal Code Section 10.10.140(C):**

The approval authority must find that the application for a Variance complies with the following criteria:

1. The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and
2. The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
3. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

d. **Staff Analysis:**

In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

- i. *Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.*

In regard to this criterion, the Planning Commission should consider whether the applicant has sufficiently demonstrated that the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

It is unfortunate that Harbor Freight is in the position that they are in with respect to the wall sign facing US 101. They hired a firm that specializes in designing commercial signs, and that firm did not pick up on the 200 sq. ft. limitation when putting together plans for the wall sign facing US 101. Further, City staff responsible for reviewing sign permit applications for compliance with the Newport Municipal Code failed to identify that the proposed sign exceeded the 200 sq. ft. display area limitation and issued the sign permit. As for the freestanding sign, it was Harbor Freight's responsibility to obtain a sign permit to replace the sign in the pole structure and the firm they hired to design the new sign has not obtained a permit, nor can the City authorize one with the 200 sq. ft. cumulative display area limitation.

Attached is a communication from the City Attorney regarding permits that are issued in violation of City codes (Attachment "H"). He calls attention to the last couple of paragraphs summarizing an Oregon Court of Appeals case in *Clackamas County v. Emmert* (1973) where the Court points out that zoning ordinances are enacted for the benefit and welfare of the citizens of a municipality. Issuance of a permit that violates such an ordinance not only is illegal, per se, but is injurious to the interests of the property owners and residents of the neighborhood adversely affected by the violation. The Court further notes that when a City acts to revoke an illegal permit it is exercising its police power to enforce a zoning ordinance for the protection of all citizens who have been injured by the violation, and not to protect some proprietary interest of the City.

The purpose section of Newport's sign code similarly notes that its provisions are intended to protect and promote the health, safety, property, and welfare of the public... (Ref: NMC 10.10.010(A), Attachment "G"). A sign permit issued by the City in violation of its own codes is not a valid permit, and should not be construed as justification to support a determination that the applicant, Harbor Freight, faces a practical difficulty or hardship that warrants a variance to the 200 sq. ft. cumulative display area limitation per street frontage.

Commission members should consider whether or not other factors exist to warrant a finding that Harbor Freight is facing a hardship or practical difficulty. Such determinations are precedent setting. The City has

issued three variances involving requests to exceed the sign ordinance's display area limitation in the last 15 years. Copies of those decisions are enclosed.

The 2015 decision involved Motel 6 facing US 101 at the south end of the Yaquina Bay Bridge (Attachment "K"). That application requested a variance to the sign height and size limitations given the grade difference and the property's proximity to the bridge. The Commission accepted the applicant's argument that the grade difference created a hardship in terms of US 101 visibility and approved the height variance, but required the signs adhere to the 200 sq. ft. display area limitation.

In 2018, the Commission approved a variance to the sign height and size standards for the new Samaritan Pacific Hospital (Attachment "J"). In that case, the Commission concluded that a hardship existed because of the unique "life safety" function of such a medical facility and the added emphasis it places on effective wayfinding. The large building mass and distance from US 101 were also factors.

Lastly, the 2023 decision involved a request by the Port of Newport, on behalf of the Sea Lion Foundation, to install a 114 sq. ft. laminated freestanding sign at Port Dock 1, a location that is limited to 21 sq. ft. of display area per the code due to its limited street frontage (Attachment "I"). The Commission approved that variance reasoning that the sign was akin to a mural with its graphics, aligned with the tourist oriented signage theme of the Bayfront, and is directed at pedestrians as opposed to vehicles so that it wouldn't be a traffic hazard.

None of these factors appear to be relevant to the subject request.

- ii. *The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and.*

The purposes of the Newport Sign Code are:

A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.

B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.

C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.

D. To prevent distraction of motorists, bicyclists and pedestrians.

E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.

F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.

G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.

H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

The applicant states in their narrative (Attachment "B") that the signage proposed is designed to help motorists navigate their way to this Harbor Freight location. Harbor Freight is not located in all cities, so persons traveling here may come from outside of Newport to locate this retail service. Signs are designed to be clearly visible in all weather and traffic conditions as posted speed limits. The United States Sign Council makes clear recommendations for parallel signs and their visibility.

Further, the applicant points out that Harbor Freight Signs are designed for the safety and welfare of those traveling here to provide information for the general public. The sign proposed is consistent with the purpose of the Newport Sign Code (the applicant's narrative then lists the purpose provisions of the code that are outlined above).

The principal mode of transportation to and from Harbor Freight Tools is vehicle traffic, and the property is well situated in that regard with prominent frontage along Highway 101. Vehicles travelling north on US 101 can readily identify Harbor Freight by virtue of the 159.34 sq. ft. compliant wall sign along the parcels NW 6th Street frontage and the un-permitted freestanding pole sign. Vehicles travelling south on US 101 can also readily identify Harbor Freight, as the un-permitted pole sign is visible from a significant distance. The oversized wall sign that is the subject of this variance request is parallel to US 101, facing the highway. As such, it is less visible to US 101 traffic than the other two signs, which are perpendicular to the highway, because US 101 drivers can only see it at an angle. This east facing wall sign is most prominently visible to vehicles traveling west on NE 6th Street, as they see it head on. That is a small amount of traffic and a smaller wall sign would have the same

utility since vehicles traveling west, toward the store, are heading directly at it. The property has the added benefit of being at the corner of a signalized intersection, improving site visibility from all directions. Given the above, it would be difficult to accept the applicant's argument that a variance to the 200 sq. ft. sign display area limitation is needed along the property's US 101 frontage in order to promote traffic safety, and ensure adequate wayfinding to and from the business.

The disproportionately large size of the east facing wall sign, as compared to nearby commercial signage that is compliant with the code, may make it more of a distraction to motorists, than if compliant signage were to be installed. The Commission should consider this, as preventing distractions to motorists is one of the purposes of the sign code. The Commission should also carefully review the applicant narrative and proposal to determine if a variance is required to further one or more of the purposes of the sign code. Commission members are not limited to points raised by the applicant or City staff; however, a finding must be made that the variance is consistent with the purposes of the sign code in order for the variance to be approved.

- iii. *The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and*

The applicant states that the proposed sign is consistent with the sign size and type allowed at other commercial properties. They point out that this is a commercial area, and that the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site.

The applicant further notes that the proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign proposed is not going to detract from the architecture or surrounding area. This is an upgrade to the facade of the building and the signs proposed are consistent with the national brand image Harbor Freight customers are familiar with. The sign proposed is exceptional in design using channel letters and internal illumination that will comply with the illumination methods of the code. This is an allowed sign type.

The Harbor Freight wall sign facing US 101 is noticeably larger than signage on commercial properties in the vicinity of the site, so it would be difficult for the Commission to accept the applicant's argument that it is consistent with the sign size allowed at other commercial properties. The design is similar to other commercial signage in the area and it fills out

the façade facing US 101. In 2020 Harbor Freight Tools renovated tenant space in a Corvallis shopping center. That building has a similar façade as the recently opened store in Newport. It appears the same sign company designed a smaller wall sign at that location (Attachment "L") so it is possible for the wall sign facing US 101 to be replaced with a sign that is smaller, without detracting from the architectural character of the development.

- iv. *The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.*

The applicant notes that the sign is intended to be visible when the ground sign is out of the line of sight for traffic that is headed to this destination. GPS technology is not always accurate and motorists do not all navigate in the same manner. Some use building signage and some use ground signage, some look up and some look down, some will use the building as a landmark and some will use the street name. The presence of a sign contributes significantly to the safety of motorists. Not everyone uses GPS or cellular technology. The demographic of customer that shops here may in fact be technologically declined while being mechanically inclined.

Keeping in mind that the sign proposed was originally approved and it was discovered after installation that the permit was issued in error also creates a hardship. The sign has been manufactured, shipped, installed and now the client has learned that it's not allowed. The sign installed will enhance the overall aesthetic of this property and attract sources of economic development and growth by allowing this business to take its place in the community. The sign will not impact private and public properties nearby. The sign will enable the fair and consistent enforcement of sign restrictions when taking into consideration the overall visibility of a parallel sign is necessary for the safety of those traveling here.

As noted earlier, a sign permit issued by the City in violation of its own codes is not a valid permit, and should not be construed as justification to support a determination that the applicant, Harbor Freight, faces a practical difficulty or hardship that warrants a variance to the 200 sq. ft. cumulative display area limitation per street frontage. The applicant may pursue other potential remedies to address the situation, such as a Tort Claim, that are unrelated to this variance request. Further, there is the matter of the unpermitted pole sign that is arguable of more utility and benefit as a wayfinding tool than a wall sign facing US 101 at this location.

With respect to the criteria, the US 101 facing wall sign, in of itself, exceeds the 200 square foot limitation, meaning that, under the sign code, a pole sign with additional display area could not be approved. Therefore, it would be difficult for the Commission to conclude that authorizing a variance to allow both the wall and pole sign, without a reduction in sign display area, complies with this standard since the added display area would necessarily result in additional street level sign clutter (as opposed to a signage package that complies with the 200 sq. ft. display area limitation).

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Newport Municipal Code for granting a variance, then the Commission should approve the request and ask staff to prepare findings and a final order for consideration at its next meeting (April 22, 2024). As always, the Commission may attach any reasonable conditions of approval necessary to carry out the purposes of the Ordinance as conditions of approval are permissible under NMC Section 10.10.130 (Variance Requirements – specifying that the Planning Commission utilizes the procedure and process of zoning variances, including conditions of approval). If, on the other hand, the Commission finds that the request does not comply with the criteria, then the Commission should make findings for denial. Staff would then prepare findings and a final order to that effect for the Commission’s consideration.
- F. **STAFF RECOMMENDATION:** From a staff perspective, the information in the record is insufficient to support a variance to the 200 sq. ft. display area limitation. A smaller, east facing wall sign paired with a properly permitted pole sign would provide sufficient travelers with sufficient visual cues to reach the property. The Commission should also be sensitive to precedence, as its findings in this case could be equally applicable to other requests in the future. If the Commission approves the variance, then staff recommends the following condition(s) of approval.
1. The applicant shall obtain a City of Newport sign permit for the pole sign described in this variance application.



Derrick I. Tokos, AICP
Community Development Director
City of Newport

April 4, 2024

City of Newport Land Use Application

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

Applicant Name(s): Harbor Freight	Property Owner Name(s): KSD Properties LLC
Applicant Mailing Address: 615 N Coast Highway	Property Owner Mailing Address: 500 W Sublimity Blvd, Sublimity OR 97385
Applicant Telephone No.: tracey@expeditethediehl.com	Property Owner Telephone No.: E-mail:
Authorized Representative(s): Expedite The Diehl LLC (Tracey Diehl)	
Authorized Representative Mailing Address: 6487 Hilliard Drive, Canal Winchester, OH 43110	
Authorized Representative Telephone No.: 614-828-8215	E-Mail: tracey@expeditethediehl.com

Project Information

Property Location: 615 N Coast Highway	
Tax Assessor's Map No.: R160890	Tax Lot(s): 11-11-05-CD-02400-00
Zone Designation: C1	Legal Description: attached
Comp Plan Designation:	
Brief Description of Land Use Request(s): Applicant seeks a variance to Section 10.10.085.G to allow a 282.78 sq. ft. wall sign on the east wall which exceeds the maximum 200 sq. ft. for a variance of 82.78 sq. ft.	
Existing Structures: Retail	
Topography and Vegetation: Retail Commercial Development	

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 checked="" type="checkbox"/> Variance/Adjustment |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Planned Development | <input checked="" 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 Amendment |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Temporary Use Permit | |

FOR OFFICE USE ONLY

Date Received: 3/8/24	File No. Assigned: 1-VAR-24	Fee Amount: 749-	Date Accepted as Complete: _____
Received By: DT	Receipt No.: _____	Accepted By: _____	

(SEE REVERSE SIDE)

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

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

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

<u>Tracy Dorel by affiant</u> Applicant Signature(s)	<u>3/7/24</u> Date Signed
<u>Tracy Dorel by affiant</u> Property Owner Signature(s)	<u>3/7/24</u> Date Signed
<u>Tracy Dorel</u> Authorized Representative Signature(s)	<u>3/7/24</u> Date Signed

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

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

AFFIDAVIT OF PERMIT AUTHORIZATION

This affidavit certifies that the party listed, who is not a lessee, licensed architect, engineer, or contractor, has been granted authorization to obtain a variance and permit(s) on behalf of a property owner. It must be filled out completely by the property owner if another party is applying on the owner's behalf.

I, Jeff Koehnke "owner of the property listed below certify that I have granted, Urban Sign Group and their permit expeditor Expedite the Diehl LLC, my duly authorized agent, permission to obtain the variance, sign permits and related documents necessary for the construction (or installation) of signs at the following address:

615 N. Coast Hwy, Newport, OR 97365
Address of permit location

I understand that I am authorizing them to apply for necessary permits, appeals and related permit documents. This is limited to what is necessary for sign permit projects to be completed.

[Signature] Signature of Property Owner Jeff Koehnke of KSD Properties, LLC
2-27-24 Date

Our Expeditor: Tracey Diehl / Pete Hatcher
Company Name Expedite the Diehl LLC
Company Address: 6487 Hilliard Drive
Company City, State: Zip Canal Winchester OH 43110
Contact Phone: Tracey Diehl

Notary

State of Oregon City/ County of Marion
I, Mary L. Kauffman Notary Public in and for the previously mentioned State hereby certify that Jeff Koehnke appeared before me in the State and City/County aforesaid and executed this affidavit on this 27th day of "2024, February."

My Commission Expires the 20th day of March 2027
Date Month year

Affix Seal



Description of circumstances specific to the variance:

Permits were issued for Sign A on the East Elevation facing 101. This sign is 282.78 sq. ft. It was discovered that the permits were issued in error and the sign exceeds the maximum allowed sign area. The maximum allowed is 200 sq. ft. The east elevation is 106 linear ft. The South Elevation also has a permit for a sign that is 159.34 sq. ft. The elevation is 144 linear feet and the maximum allowed sign for this elevation would be 200 sq. ft. There is an excess of 40.66 sq. ft. unused sign area.

The need for the variance has arisen because of permit that was issued in error for the east elevation. The sign has been installed and it was discovered during final inspection that the sign is over the allowable square footage.

The applicant seeks a variance from Section 10.10.085.G where the maximum allowed square footage is 200 sq. ft. to allow a wall sign that is 282.78 sq. ft. This is a variance of 41.4% totaling 82.78 sq. ft.

Written Findings of Fact:

That the variance is consistent with the purposes of the sign code, as provided in Newport Municipal Code §10.10.010 and §10.15.005; and

The signage proposed is designed to help motorists navigate their way to this Harbor Freight location. Harbor Freight is not located in all cities, so persons traveling here may come from outside of Newport to locate this retail service. Signs are designed to be clearly visible in all weather and traffic conditions as posted speed limits. The United States Sign Council makes clear recommendations for parallel signs and their visibility.

Harbor Freight Signs are designed for the safety and welfare of those traveling here to provide information for the general public. The sign proposed is consistent with the purpose of the Newport Sign Code:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

That the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

The proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign

That the variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

The proposed sign is consistent with the sign size and type allowed at other commercial properties. This is a commercial area and the sign proposed is not going to detract from the architecture or surrounding area. This is an upgrade to the façade of the building and the signs proposed are consistent with the national brand image Harbor Freight customers are familiar with. The sign proposed is exceptional in design using channel letters and internal illumination that will comply with the illumination methods of the code. This is an allowed sign type.

That the variance will not significantly increase or lead to street level sign clutter, nor will it create a traffic or safety hazard.

The sign is intended to be visible when the ground sign is out of the line of sight for traffic that is headed to this destination. GPS technology is not always accurate and motorists do not all navigate in the same manner. Some use building signage and some use ground signage, some look up and some look down, some will use the building as a landmark and some will use the street name. The presence of a sign contributes significantly to the safety of motorists. Not everyone uses GPS or cellular technology. The demographic of customer that shops here may in fact be technologically declined while being mechanically inclined.

Keeping in mind that the sign proposed was originally approved and it was discovered after installation that the permit was issued in error also creates a hardship. The sign has been manufactured, shipped, installed and now the client has learned that it's not allowed. The sign installed will enhance the overall aesthetic of this property and attract sources of economic development and growth by allowing this business to take it's place in the community. The sign will not impact private and public properties nearby. The sign will enable the fair and consistent enforcement of sign restrictions when taking into consideration the overall visibility of a parallel sign is necessary for the safety of those traveling here.



City of Newport
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
Fax: 541-574-0644

Building Permit

Commercial Sign

Permit Number: 625-23-000510-SIGN

IVR Number: 625019004192

Web Address: www.newportoregon.gov

Email Address: permits@newportoregon.gov

Permit Issued: August 09, 2023
Project: Harbor Freight-36354

Application Date: July 25, 2023

TYPE OF WORK

Category of Construction: Commercial **Type of Work:** None Specified
Submitted Job Value: \$2,107.63
Description of Work: Installation of one (1) new wall sign

JOB SITE INFORMATION

Worksite Address	Parcel	Owner:	KSD PROPERTIES LLC
615 N COAST HWY	11-11-05-CD-02400-00	Address:	500 W SUBLIMITY BLVD
NEWPORT OR			SUBLIMITY, OR 97385

LICENSED PROFESSIONAL INFORMATION

Business Name	License	License Number	Phone
E S & A SIGN CORP - Primary	CCB	163470	541-485-5546
STANLEY G ROSEBORO	(SIG) Electrician, Limited Journeyman, Sign	514SIG	541-485-5546

PENDING INSPECTIONS

Inspection	Inspection Group	Inspection Status
6999 Final Sign	Signs	Pending

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at www.buildingpermits.oregon.gov

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 625019004192

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

PERMIT FEES

Fee Description	Quantity	Fee Amount
Sign - Other - new, replacement, or reconstruction	1	\$153.00
Total Fees:		\$153.00

Note: This may not include all the fees required for this project.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

Per R105.7 and R 106.3.1, a copy of the building permit and one set of approved construction documents shall be available for review at the work site.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

Advance your brand.

610-522-5555
UrbanSignGroup.com

500 Pine St., Suite 3A
Holmes, PA 19043

Customer Approval

Signature _____

Date _____

Landlord Approval

Signature _____

Date _____

Above signatures authorize Urban Sign Group to manufacture as specified including, all sizes, spelling, punctuation, and colors.

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All rights reserved.

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

SALES	JM	PM	PF
-------	----	----	----

PROJECT: 001212 Rev 05

DATE: 12/12/2023

DRAWN BY: KM

SHEET SIZE: 8.5" X 14" PAGE: 1



Facade modifications and paint by HFT G.C.

56' 1/2"

HARBOR FREIGHT
QUALITY TOOLS LOWEST PRICES

HARBOR FREIGHT Sign Vertical Newport Oregon

Page 26 of 32

FRONT ELEVATION - Sign Type (A) (QTY:1)
Channel Letters on Raceway
Scale: 3/32" = 1'-0" (282.78 sqft)

Max allowed 200 sq. ft.
Proposed 282.78 sq. ft.

variance 82.78 sq. ft.



EXISTING CONDITIONS
Scale: NTS



Advance your brand.

610-522-5555
UrbanSignGroup.com

500 Pine St., Suite 3A
Holmes, PA 19043

Customer Approval

Signature _____
Date _____

Landlord Approval

Signature _____
Date _____

Above signatures authorize Urban Sign Group to manufacture as specified including, all sizes, spelling, punctuation, and colors.

© 2023 Urban Sign Group
All rights reserved.

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

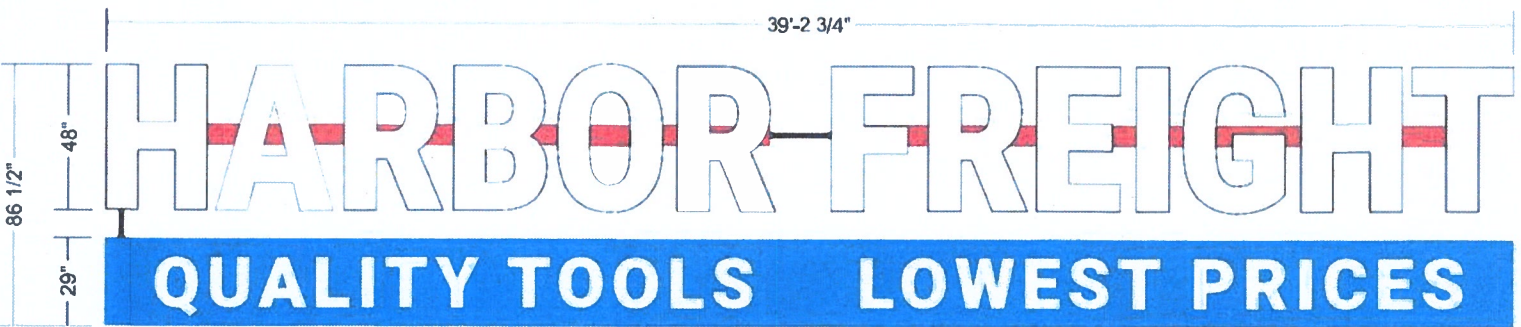
SALES	JM	MM	PFD
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PROJ-CT 001212 Rev 05

DATE 12/12/2023

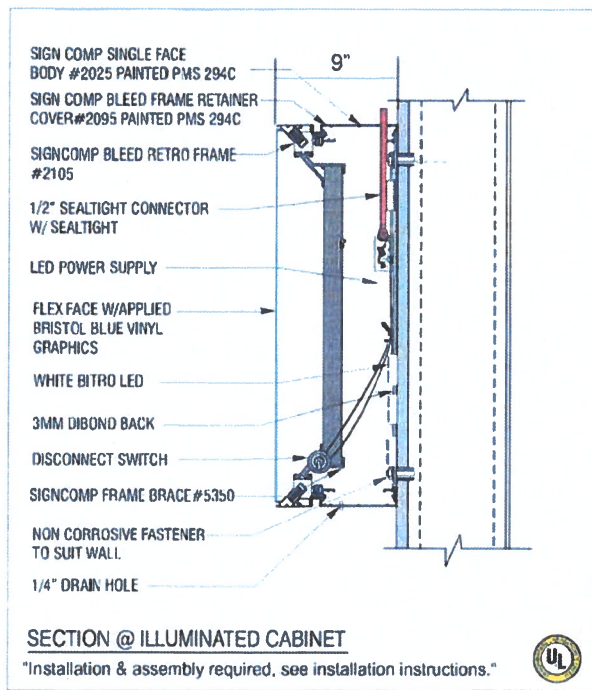
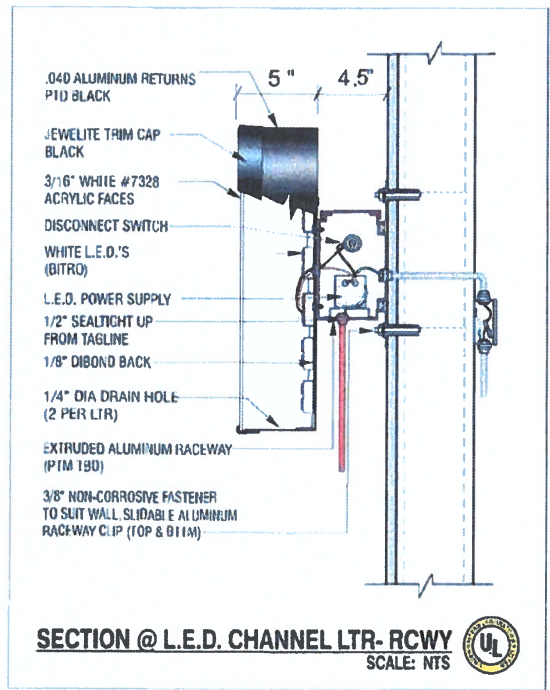
DRAWN BY KM

SHEET SIZE 8.5" X 14" PAGE 2



FRONT ELEVATION - Sign Type (A) (QTY:1)
Channel Letters on Raceway
Scale: 1/4" = 1' (282.78 SQ FT)

HARBOR FREIGHT
Sign Variance Newport Oregon
Page 27 of 32





ADVANCE
YOUR
brand.

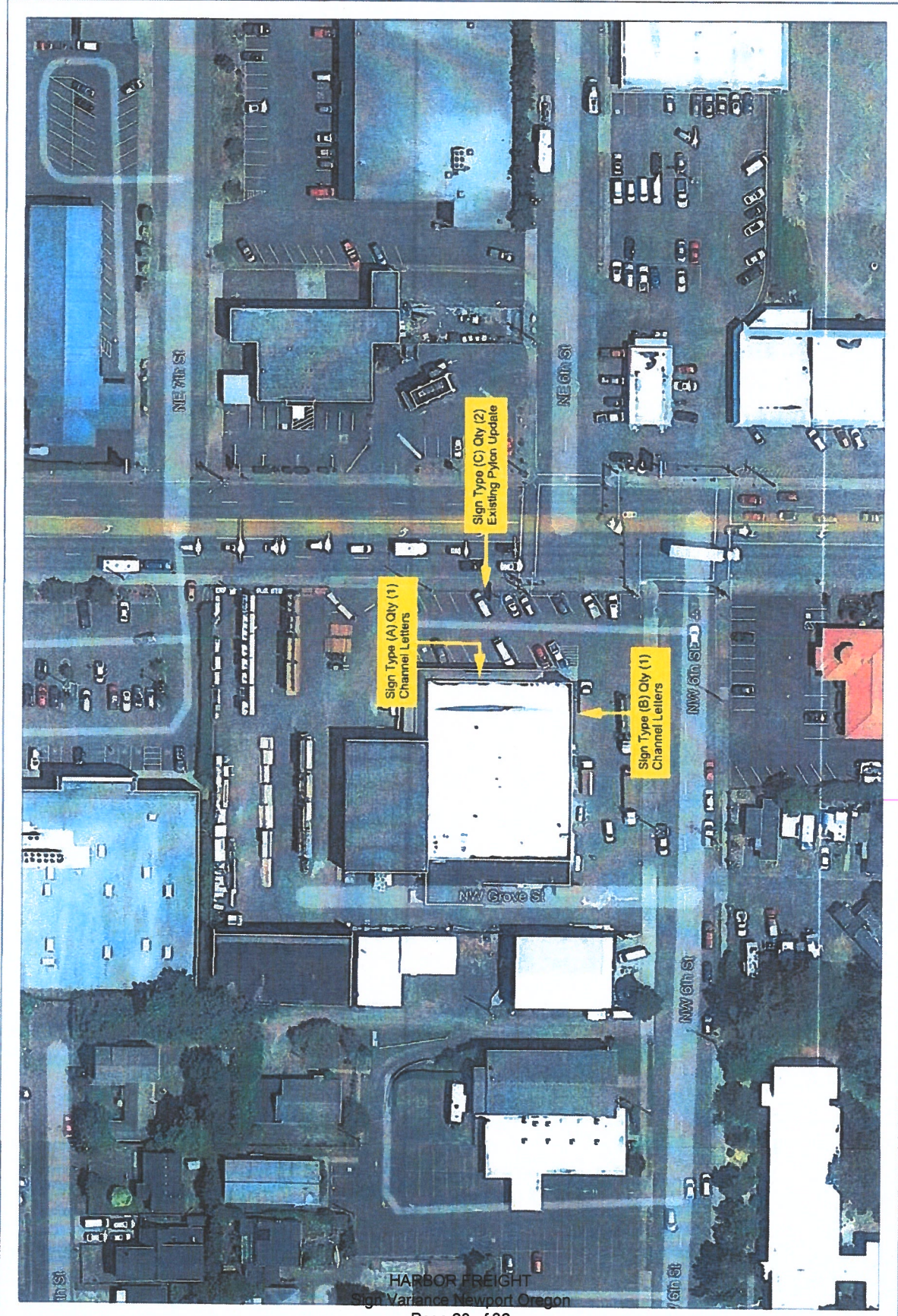
610-522-5555
UrbanSignGroup.com
500 Pine St, Suite 3A
Harris, PA 15003

Customer Approval	Signature _____
	Date _____
Landlord Approval	Signature _____
	Date _____
<small>Above signature authorize Urban Sign Group to manufacture or install including all signs, signs, installation and colors.</small>	
<small>2024 Urban Sign Group All Rights Reserved</small>	

Harbor Freight Tools

615 N. Coast Hwy.
Newport, OR 97365

SALES	JM	PM	PFD
PRODUCT	001212 Rev 05		
DATE	12/12/2023		
DRAWN BY	KM		
SHEET SIZE	8.5" X 11"	PAGE	11



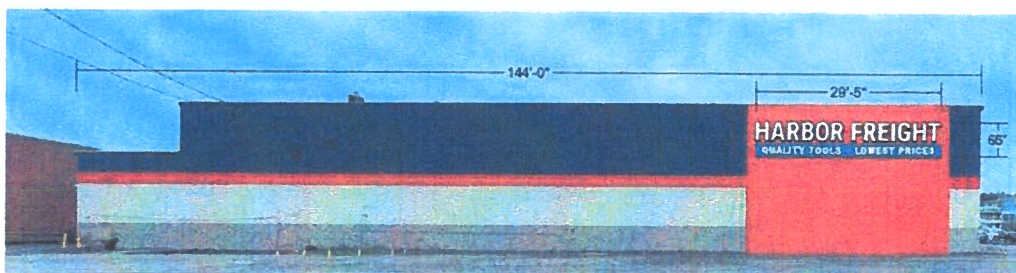
HARBOR FREIGHT
Sign Variance Newport Oregon
Page 28 of 32

Inventory:

Sign A East Elevation Wall Sign internally illuminated channel letters that read: HARBOR FREIGHT QUALITY TOOLS LOWEST PRICES 282.78 SQ. FT.



Sign B South Elevation Wall Sign internally illuminated channel letters that read: HARBOR FREIGHT QUALITY TOOLS LOWEST PRICES 159.34 sq. ft.



Sign C Pole sign 96 sq. ft. along Highway 101



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

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

File No. 1-VAR-24.

Owner/Applicant: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)).

Request: Approval of a Type III variance pursuant to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance.

Location: Assessor's Map 11-11-05-CD; Tax Lot 2400 (615 N Coast Hwy).

Applicable Criteria: Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department (address under "Reports/Materials") 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 the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Materials: The staff report may be reviewed or a copy purchased at the Newport Community Development Department, City Hall, 169 S.W. Coast Hwy, Newport, Oregon, 97365 seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at this address.

Contact: Derrick I. Tokos, AICP, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov (address above in "Reports/Materials").

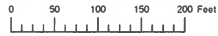
Time/Place of Hearing: Monday, April 8, 2024; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: March 13, 2024.

PUBLISHED: March 27, 2024/Lincoln County Leader.

¹This notice is being sent to affected property owners within 200 feet of the subject property (according to Lincoln County tax records), affected public utilities within Lincoln County, and affected city departments.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



S.E. 1/4 S.W. 1/4 SEC. 5 T. 11S. R. 11W. W.M.
LINCOLN COUNTY
1" = 100'

11 11 05 CD
NEWPORT

- Cancelled
- 1000
- 2000
- 5900
- 6000
- 6300
- 6700
- 6800
- 7401
- 7500
- 7600
- 8100
- 8400
- 8600
- 9200
- 9300
- 9600
- 10000
- 10500-21
- 11400
- 11500
- 11600
- 11900
- 12200
- 12300
- 12400
- 12500
- 12700-31
- 13200
- 13300
- 13804

Subject Property
File No. 1-VAR-24

PREPARED FOR
LOTS 15 & 16
SE-1/4 VIEW BLOCKS



SEE MAP 11 11 05 CA

SEE MAP 11 05 CC

SEE MAP 11 11 05 DC

1/16 COR

1/4 COR

SEE MAP 11 11 08 BA

115 & THOMPSON'S
ADDN

104

115

Revised: SAO
03/18/2022

NEWPORT
11 11 05 CD
79

BOHMAN FAMILY LLC ETAL
855 W BROAD ST STE 300
BOISE, ID 83702

BREAKERS LLC
2036 SW WILLOW PKY
GRESHAM, OR 97080

CHASE JAMES A & CHASE BRENDA G
209 NW 7TH
NEWPORT, OR 97365

CROWDER CO LLC
312 SW 29TH ST
NEWPORT, OR 97365

EPPERSON LARRY TRUSTEE &
EPPERSON LETITIA TRUSTEE
654 NW NYE ST
NEWPORT, OR 97365

ESTRADA ISAIAS A & LOPEZ SANDRA
CORNEJO
237 NW 7TH ST
NEWPORT, OR 97365

FIRST BAPTIST CHURCH
OF NEWPORT, INC
208 NW 6TH ST
NEWPORT, OR 97365

GDNJ LLC
728 N COAST HWY
NEWPORT, OR 97365

KSD PROPERTIES LLC
500 W SUBLIMITY BLVD
SUBLIMITY, OR 97385

LAS CASITAS LLC
PO BOX 349
NEWPORT, OR 97365

MALVITCH JOHN SCOTT
236 NW NYE CT
NEWPORT, OR 97365

ND MANOR LLC
PO BOX 2968
PORTLAND, OR 97208

NEWPORT TRUST, THE & BERTULEIT
DONALD JEFFERY TTEE
354 SE 2ND ST
NEWPORT, OR 97365

NORTHWEST COASTAL HOUSING
PO BOX 1457
NEWPORT, OR 97365

PEARCE ROBERT WARD & PEARCE
LAUREEN CHRISTINE
PO BOX 814
SILETZ, OR 97380

RAWLINGS DREW L & RAWLINGS
EMILY A
628 NW NYE ST
NEWPORT, OR 97365

SPARKS KAREN JUNE
222 NW 7TH ST
NEWPORT, OR 97365

WASHINGTON FED SAVINGS & LOAN
425 PIKE ST
SEATTLE, WA 98101

WILSON MICHAEL L
PO BOX 113
NEWPORT, OR 97365

YECK ERNEST A
PO BOX 1256
NEWPORT, OR 97365

ZELLNER JERRY L III
225 NW 7TH ST
NEWPORT, OR 97365

EXPEDITE THE DIEHL LLC
ATTN: TRACEY DIEHL
6487 HILLARD DRIVE
CANAL WINCHESTER, OH 43110

HARBOR FRIEGHT
615 N COAST HWY
NEWPORT, OR 97365

File No. 1-VAR-24

Adjacent Property Owners Within 200 Ft

NW Natural
ATTN: Dave Sanders
2815 NE 36th Dr
Lincoln City, OR 97367

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

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

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

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

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

Derrick Tokos
Community Development Dept

Rob Murphy
Fire Chief

Joseph Lease
Building Official

Laura Kimberly
Library

Jason Malloy
Police Chief

Steve Baugher
Finance

Beth Young
Associate Planner

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Lance Vanderbeck
Airport

Chris Beatty
Public Works

Justin Scharbrough
Public Works

EXHIBIT 'A'
(Affected Agencies)

(1-VAR-24)

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, March 13, 2024 10:49 AM
To: Derrick Tokos; Spencer Nebel; Robert Murphy; Joseph Lease; Jason Malloy; Laura Kimberly; Michael Cavanaugh; Beth Young; Lance Vanderbeck; Steve Baugher; Justin Scharbrough; Chris Beatty
Subject: Variance Permit - File No. 1-VAR-24
Attachments: File 1-VAR-24 - 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.**

Thank you,

Sherri Marineau

Executive Assistant
 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

NEW CITY HALL HOURS BEGINNING: January 22, 2024
Monday – Thursday 8:00am-6:00pm, CLOSED on FRIDAYS



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: Wednesday, March 13, 2024 10:49 AM
To: 'odotr2planmgr@odot.state.or.us'; Brett Estes
Subject: Variance Permit - File No. 1-VAR-24
Attachments: File 1-VAR-24 - 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.**

Thank you,

Sherri Marineau

Executive Assistant
 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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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.

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

The Planning Commission of the City of Newport, Oregon, will hold a public hearing in the City Hall Council Chambers at 7:00 p.m. on Monday, April 8, 2024, to consider File No. 1-VAR-24, which is a request submitted by: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)). The request is for an approval of a variance pursuant to Section 10.10.085(G) of the City of Newport Municipal Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non-exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance. The property is located 615 N Coast Hwy; Assessor's Map 11-11-05-CD; Tax Lot 2400. Per Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and per Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, 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 the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov. (address above).

(FOR PUBLICATION ONCE ON WEDNESDAY, March 27, 2024)

3/27/2024

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

999 Public Notices

ing a reasonable charge by the trustee. Notice is further given that any person named in Section 86.778 of Oregon Revised Statutes has the right to have the foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of said principal as would not then be due had no default occurred), together with the costs, trustee's and attorney's fees and curing any other default complained of in the Notice of Default by tendering the performance required under the obligation or trust deed, at any time prior to five days before the date last set for sale. Other than as shown of record, neither the beneficiary nor the trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the trust deed, or of any successor in interest to grantor or of any lessee or other person in possession of or occupying the property, except: Name and Last Known Address and Nature of Right, Lien or Interest Seth Vineyard 916 SE LOREN LN TOLEDO, OR 97391 Original Borrower Breannah Vineyard 916 SE LOREN LN TOLEDO, OR 97391 Original Borrower For Sale Information Call: 855 238-5118 or Login to: https://www.xome.com in construing this notice, the singular includes the plural, the word "grantor" includes any successor in interest to this grantor as well as any other person owing an obligation, the performance of which is secured by the trust deed, and the words "trustee" and "beneficiary" include their respective successors in inter-

est, if any. Pursuant to Oregon Law, this sale will not be deemed final until the Trustee's deed has been issued by QUALITY LOAN SERVICE CORPORATION. If any irregularities are discovered within 10 days of the date of this sale, the trustee will rescind the sale, return the buyer's money and take further action as necessary. If the sale is set aside for any reason, including if the Trustee is unable to convey title, the Purchaser at the sale shall be entitled only to a return of the monies paid to the Trustee. This shall be the Purchaser's sole and exclusive remedy. The purchaser shall have no further recourse against the Trustor, the Trustee, the Beneficiary, the Beneficiary's Agent, or the Beneficiary's Attorney. If you have previously been discharged through bankruptcy, you may have been released of personal liability for this loan in which case this letter is intended to exercise the note holders right's against the real property only. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit report agency if you fail to fulfill the terms of your credit obligations. Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamine, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale. NOTICE TO TENANTS: TENANTS OF THE SUBJECT REAL

PROPERTY HAVE CERTAIN PROTECTIONS AFFORDED TO THEM UNDER ORS 86.782 AND POSSIBLY UNDER FEDERAL LAW. ATTACHED TO THIS NOTICE OF SALE, AND INCORPORATED HEREIN, IS A NOTICE TO TENANTS THAT SETS FORTH SOME OF THE PROTECTIONS THAT ARE AVAILABLE TO A TENANT OF THE SUBJECT REAL PROPERTY AND WHICH SETS FORTH CERTAIN REQUIREMENTS THAT MUST BE COMPLIED WITH BY ANY TENANT IN ORDER TO OBTAIN THE AFFORDED PROTECTION, AS REQUIRED UNDER ORS 86.771. TS No: OR-23-969490-SW Dated: 2/20/2024 Quality Loan Service Corporation, as Trustee Signature By: Jeff Stenman, President Trustee's Mailing Address: QUALITY LOAN SERVICE CORPORATION 108 1st Ave South, Suite 450, Seattle, WA 98104 Toll Free: (866) 925- 0241 Trustee's Physical Address: Quality Loan Service Corporation 2763 Camino Del Rio South San Diego, CA 92108 Toll Free: (866) 925- 0241 IDSPub #0201072 3/27/2024 4/3/2024 4/10/2024 4/17/2024

LCL 56-27 CITY OF NEWPORT NOTICE OF A PUBLIC HEARING The Planning Commission of the City of Newport, Oregon, will hold a public hearing in the City Hall Council Chambers at 7:00 p.m. on Monday, April 8, 2024, to consider File No. 1- VAR-24, which is a request submitted by: KSD Properties LLC, owner (Harbor Freight, applicant (Tracey Diehl, Expedite The Diehl, authorized representative)). The request is for an approval of a variance pursuant to Section 10.10.085(G) of the City of Newport Municipal

Code to allow the placement of a 282.78 square foot wall sign and a 96 square foot freestanding sign that exceeds the maximum display area for the street frontage. Section 10.10.085(G) of the Newport Municipal Code limits the street frontage for all non- exempt signs other than mural signs to no more than 200 square feet of display area. The variance of 178.78 square feet is for a 89.4% variance. The property is located 615 N Coast Hwy; Assessor's Map 11-11-05-CD; Tax Lot 2400. Per Newport Municipal Code Section 10.10.130(A): All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant; and per Newport Municipal Code Section 10.10.140(C): The approval authority must find that the application for a Variance complies with the following criteria: (1.) The Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and (2.) The Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and (3.) The Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard. Testi-

mony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral and written testimony will be taken during the course of the public hearing. Letters to the Community Development/Planning Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, 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 the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased at the Newport Community Development Department (address above) seven days prior to the hearing. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, d.tokos@newportoregon.gov. (address above). M27

hours of 9:00 am and 4:00 pm. It will also be available on our website at WWW.NLFR.ORG. This is a public meeting where deliberation of the Budget Committee will take place. HB2560 requires that all Oregon public entities, including special districts, make all meetings accessible remotely and provide opportunity for members of the public to remotely submit oral and written testimony, to the extent reasonably possible. Comments can be submitted to the Fire Chief at 541-996-2233 or by email at roahman@nlfr.org no later than Tuesday, April 11, 2024. Members of the public may attend electronically; see the agenda on our website for further information.

LCL24-2001 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN

In the Matter of the Estate of ESTHER DORTHY SLOAT, Deceased. Case No. 23PB09045 NOTICE TO INTERESTED PERSONS NOTICE IS HEREBY GIVEN THAT the undersigned has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative by and through their attorney at PO Box 1987, Newport, OR 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyers for the personal representative, Traci P. McDowall. Dated and first published on March 27, 2024. Traci P. McDowall, OSB #184063 Attorney for Personal Representative, PERSONAL REPRESENTATIVE: Cheryl Dutton, 1324 Crystal Creek Ln., Toledo, OR 97391, 541-875-2703 LAWYER FOR PERSONAL REPRESENTATIVE: Traci P. McDowall, OSB #184063, PO Box 1987, Newport, OR 97365, (541) 272-5500, traci@yaquilaw.com LCL24-2000

LCL24-2002

A public meeting of the Budget Committee of the North Lincoln Fire & Rescue District #1, Lincoln County and Tillamook County, State of Oregon, to discuss the budget for the fiscal year July 1, 2024 to June 30, 2025, will be held at the Bob Everest Station 14, 2525 NW Highway 101, Lincoln City, Oregon. The meeting will take place on Wednesday, April 17th at 4:00 pm. The purpose of the meeting is to receive the budget message and to receive comment from the public on the budget. A copy of the budget document may be inspected or obtained on or after April 12th at the Bob Everest Station 14, 2525 NW Hwy 101, Lincoln City,

Super Crossword

HAVING A ROLE TO FILL

- 101 Stephen of "Ondine"
104 Hypothetical cases
105 End of the riddle
110 Cloaked
113 Inferior mag
114 Tiki bar necklace
115 Ending for pay or plug
116 Response to
5 Regret
6 Jumbo tub
7 Early anesthetic
8 Pete of folk music
9 St. Pete loc.
10 Ranch rope
11 River romper
12 With — to (in hopes of)
13 It may contain
44 Blunder
46 Dirt-digging journalist
47 Hog haven
48 "— tu" (Verdi aria)
50 — May (one of TV's Clampetts)
52 Ship poles
53 "Dream on!"
54 Deform
55 Et — (and
91 Delhi dress
92 Beer on "The Simpsons"
94 Test, as tea
98 Triple-time dances, in Paris
99 Ending for Siam or Milan
100 Big Japanese dogs
102 Kuwaiti

Lincoln County is soliciting bids for overlaying 0.85 miles of S.E. 35th Street (County Road Number 513). The road is located near Newport, Oregon. Estimated Project cost is \$238,000. Contract to be completed by June 21st, 2024. Anticipated Notice to Proceed date is June 3rd, 2024. Bid documents may be obtained from the County's web site at https://www.co.lincoln.or.us/966/Bids-RFPs. PLEASE NOTE:

CHAPTER 10.10 SIGNS

10.10.005 Short Title

This chapter may be referred to as the Newport Sign Code.

10.10.010 Purpose

The purposes of the Newport Sign Code are:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

10.10.015 Scope

All signs shall comply with this chapter. Provided however, that any signs in the Agate Beach area annexed in 1998 shall comply with [Chapter 10.15](#), and in

the event of an inconsistency between the two chapters, [Chapter 10.15](#) shall prevail as to any property within the Agate Beach area.

10.10.020 **Prohibited Signs**

No sign may be erected, maintained, or displayed except as expressly authorized by this chapter.

10.10.025 **Conflicting Provisions**

If any provisions of this chapter conflict with any law or regulation requiring a sign or notice, the law or regulation requiring the sign or notice shall prevail.

10.10.030 **Definitions**

The definitions in this section apply in this chapter.

- A. **Adjacent** means immediately next to and on the same side of the street.
- B. **Awning** includes any structure made of cloth, metal, or similar material with a frame attached to a building that may project outwards but can be adjusted to be flat against the building when not in use.
- C. **Building** shall include all structures other than sign structures.
- D. **Bulletin Boards**. A bulletin board is a surface for posting posters, cards, or notices, usually of paper, and not illuminated or electrical.
- E. **Business** means the premises where a duly licensed business is conducted. Multiple businesses conducted within the same premises shall be subject to the same limits as would a single business on the same premises.
- F. **Canopy** includes any structure made of cloth, metal, or similar material projecting out from a building that is fixed and not retractable.
- G. **Clearance** is the distance between the highest point of the street, sidewalk, or other grade below the sign to the lowest point of the sign.

- H. **Display Area** means the area of a regular geometric figure that encloses all parts of the display surface of the sign. Structural supports that do not include a display or message are not part of the display area.
- I. **Erect** means to build, attach, hang, place, suspend, paint, affix, or otherwise bring into being.
- J. **Externally Illuminated Sign** is a sign illuminated by an exterior light source that is primarily designed to illuminate the sign.
- K. **Face** means any part of a sign arranged as a display surface substantially in a single plane.
- L. **Grade** means the surface of the ground at the point of measurement. Height shall be measured from the lowest point of the grade immediately below the sign or any sidewalk or street within 5 feet of the sign and the top of the sign.
- M. **Internally Illuminated Sign** shall mean a sign illuminated by an interior light source, which is primarily designed to illuminate only the sign.
- N. **Multiple Business Property** means a property used for business or commercial purposes under a single ownership or control and containing less than 40,000 square feet of land area and on which three or more separate businesses or commercial enterprises are located.
- O. **Painted** includes the application of colors directly on a wall surface by any means.
- P. **Person** means individuals, corporations, firms, partnerships, associations, and joint stock companies.
- Q. **Premise** means a lot, parcel, or tract of land.
- R. **Reader Board** is a sign designed so that the sign face may be physically or mechanically changed, but does not include electronic message signs.

- S. **Shopping Center** means any property used for business or commercial purposes under a single ownership or control having at least 40,000 square feet of land area and on which are located business or commercial improvements containing at least 20,000 square feet of floor space.
- T. **Sign** means any medium, including structure and component parts, which is used or intended to be used to display a message or to attract attention to a message or to the property upon which such sign is located.
1. **Electronic Message Sign** means a permanent sign consisting of text, symbolic imagery, or both, that uses an electronic display created through the use of a pattern of lights in a pixilated configuration allowing the sign face to intermittently change the image without having to physically or mechanically replace the sign face, including an LED (Light Emitting Diode) sign, as distinguished from a static image sign.
 2. **Freestanding Sign** means any sign permanently attached to the ground that is not affixed to any structure other than the sign structure.
 - a. **Pole Sign** means a freestanding sign that is mounted on a pole or other support that is not as wide as the sign.
 - b. **Monument Sign** means a freestanding sign in which the sign structure is at least as wide as the sign.
 3. **Mural Sign** means a sign that is painted directly on the wall of a building or retaining wall, without any sign structure or additional surface.
 4. **Portable Sign** means a sign that is not attached to the ground or any structure and is movable from place to place. "Portable sign" does not include any sign carried or held by an individual.
 5. **Projecting Sign** means a sign attached to the wall or roof of a building with a sign face that is not parallel to the wall or roof.

6. **Roof Sign** means a sign attached to a roof of a building, or a sign attached to a wall of a building but extending above the top edge of the wall where the sign is located.
 7. **Temporary Sign** means any sign, regardless of construction materials, that is not permanently mounted and is intended to be displayed on an irregular basis for a limited period of time
 8. **Wall Sign** means any sign attached to a wall of a building that does not extend above the wall of the building and is parallel to and within one foot of the wall.
 9. **Window Sign** shall mean any sign placed inside or upon a window facing the outside and which is visible from the exterior.
- U. **Sign Business** means the business of constructing, erecting, operating, maintaining, leasing, or selling signs.
- V. **Sign Structure** means the supports, upright braces, and framework of the sign.

10.10.035 **Application, Permits, and Compliance**

- A. Except as exempted by this chapter, no person shall erect, replace, reconstruct, move, or remove any permanent sign without a sign permit, or place a temporary or portable sign without a sign permit. All signs shall comply with this chapter and any other applicable law. Any sign permit may be withdrawn for violation of this chapter or any other applicable law.
- B. Written applications on city forms are required. The applicant shall provide the following information:
 1. Name, address, and telephone number of the applicant.
 2. Proposed sign location, identifying the property and any building to which the sign will be attached.

3. A sketch, plan, or design showing the method of attachment, structure, design, and such other information necessary to allow a determination of compliance. Nothing in this section requires the applicant to provide any information regarding the content of any message displayed on the sign.
 4. Grade, height, dimensions, construction materials, and specifications.
 5. Underwriter Laboratories certification in the case of an electrical sign.
 6. Name and address of the person, firm, corporation, or other business association erecting the structure.
- C. The city shall issue a sign permit based on a determination that the proposed sign complies with this chapter and other applicable law. Construction of the sign must be completed within 90 days after issuance of the sign permit. An extension of the 90-day period may be granted. If a sign was partially constructed and not completed within the 90-day period or any extension, the partially completed work shall be removed. Permits shall specify the location, size, and type of sign, and any conditions applicable to the sign. Permits for temporary signs and portable signs in rights of way shall specify the duration of the permit and/or the times when the signs may be in place.
- D. When electrical permits are required, they shall be obtained and the installation approved prior to making connection to the electrical power source.
- E. Permit fees shall be established by resolution of the City council, and paid with submission of the sign permit application, as follows:
1. For the erection, placement, replacement, reconstruction, or relocation of a sign. Such fee shall be supplemented by a surcharge for a mural sign that exceeds the maximum permissible size for a wall sign in the same location. Non-profit organizations are exempt from the requirement to pay the supplemental fee for a mural sign.

2. For the repair, demolition, or removal of an existing sign and/or its supporting structure.
3. For temporary signs placed in the right of way. Non-profit organizations are exempt from the requirement to pay this fee.
4. For portable signs placed in the right of way. Such fee shall include a monthly charge for use of the public right-of-way. Non-profit organizations are exempt from the requirement to pay either fee required by this section.

10.10.040 Signs in Public Rights-of-Way

- A. Except as provided in this section, permanent signs wholly located within rights-of-way are prohibited. A sign permit does not allow a sign to project into any part of any public right-of-way unless expressly stated in the permit. Each applicant shall determine the location of the public right-of-way and whether any proposed permanent sign will project into any public right-of-way. Any sign permit that allows a sign projecting into any public right-of-way shall be revocable at any time by the city with or without cause.
- B. Permits are required for temporary or portable signs within rights-of-way and may be issued only if authorized in this section.
 1. Permits for temporary and/or portable signs in rights-of-way may be granted if the sign is to be in place for no more than five consecutive days and no more than 10 total days in a calendar year.
 2. Permits for portable signs within rights-of-way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:
 - a. On SW Coast Highway between SW Angle Street and SW Fall Street.

- b. On SW Bay Street between SW Naterlin Drive and SW Bay Boulevard. On Bay Boulevard between SW Bay Street and SE Moore Drive.
- c. On Hurbert Street between SW 7th Street and SW 9th Street.
- d. In the area bounded by Olive Street on the south, NW 6th Street on the north, SW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.
- e. On SE Marine Science Drive/SE OSU Drive between SE Pacific Way and Yaquina Bay.
- f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40th Street and north of the intersection of Highway 101 and 50th Street.

(Chapter 10.10.040(B.)(2.)(f.) was added by the adoption of Ordinance No. 2001, adopted on March 16, 2010; effective April 15, 2010.)

- 3. Permits may be granted under Subsections B.1 and B.2 of this section only if:
 - a. The sign is not within any vehicle travel lane;
 - b. The sign does not restrict clear vision areas at intersections and driveway access points; and
 - c. The sign does not prohibit pedestrian movement on a sidewalk.
- C. The following signs are exempt from the prohibitions and requirements of this section:
 - 1. Sign placed by the city or other governmental entity with responsibility for the right-of-way.

2. Permanent signs placed in a location where allowed by a license or easement from the city to an adjacent property owner to occupy the right-of-way. Signs allowed by this exemption must comply with all other requirements of this chapter, and the display area of the signs will be included in the calculation of the maximum display area of the adjacent property.
 3. Signs not exceeding one square foot on a pole in the right-of-way placed on the pole by its owner.
- D. Signs placed in ODOT right-of-way may also require approval from ODOT.
- E. No permit may be issued for a sign in the right-of-way unless the applicant provides proof of liability insurance in an amount determined to be sufficient by the city manager.

(Section 10.10.045 amended by Ordinance No. 1986, adopted on September 8, 2009; effective October 8, 2009.)

10.10.045 Prohibited Signs

No sign shall be constructed, erected, or maintained:

- A. That uses lights unless effectively screened, shielded, or utilized so as not to direct light directly into the eyes of motorists traveling on any street or highway.
- B. That includes any single light bulb that creates more light than a 60 watt incandescent bulb (800 lumens).
- C. That uses neon tubing on the exterior surface of a sign for sign illumination where the capacity of such tubing exceeds 300 milliamperes rating for white tubing or 100 milliamperes rating for any other color of tubing.
- D. That uses flashing or intermittent light.
- E. That uses any type of rotating beacon light, zip light, or strobe light, or any light not directed to or part of the illumination of the sign.

- F. That uses wind-activated devices or devices which flutter in the wind, such as propellers, but excluding flags, banners, and pennants.
- G. That is flashing, blinking, fluctuating, or animated, that has parts that are flashing, blinking, fluctuating, or animated; or that includes similar effects.
- H. That uses a guy wire for support of a sign, except where there exists no other means of support for a sign otherwise conforming to the requirements of this chapter.
- I. That has any visible moving parts, visible revolving parts, visible mechanical movement of any description, or any other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations or movement or action by wind currents.
- J. That is erected at the intersection of any street that substantially obstructs free and clear vision of motorists, pedestrians and cyclists, or at any location where it may interfere with, obstruct, or be confused with any authorized traffic sign.
- K. While subject to these prohibitions, this section shall not be construed to prohibit electronic message signs where expressly permitted elsewhere in this chapter.
- L. That are attached to standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts, where allowed by this Ordinance, except for warning and safety signage as provided in Section 10.10.060.

(Section 10.10.045(L) was enacted by Ordinance No. 2180, adopted on April 5, 2021; effective May 5, 2021.)

10.10.050 Projection and Clearance

- A. Signs shall not project more than 3 feet over any public right-of-way, and in no case shall be within 2 feet of a traveled roadway.
- B. The minimum clearance of any sign over driveways, parking lots, or public right-of-ways is 16 feet,

excepting that the minimum clearance of any sign over a sidewalk is 8 feet, unless the sidewalk is used as a driveway.

10.10.055 Exempt Signs

The following signs are exempt from regulation under this chapter:

- A. Signs erected or maintained by or on behalf of a federal, state, or local governmental body. This exemption shall not apply to signs that are otherwise prohibited under [Section 10.10.045](#) except when the sign is placed in a public right-of-way by the entity responsible for managing the public right right-of-way as allowed under [Section 10.10.040](#) (C)(1).
- B. Signs not visible from a public right-of-way or from property other than the property where the sign is located. For purposes of this section, “property where the sign is located” includes all property under common ownership,” and “visible” means that the sign face is visible.

10.10.060 Partially Exempt Signs

- A. The following signs are exempt from the permit requirement and, except as expressly provided to the contrary, do not count towards maximum display area:
 1. One sign not exceeding two square feet on each property with a separate street address, placed flat against the building.
 2. In a residential zone on a property where a home occupation is legally conducted, a non-illuminated sign not exceeding two square feet in area, placed flat against the building.
 3. Signs placed on post boxes.
 4. Non-illuminated signs on private property oriented towards internal driveways and parking areas, not to exceed 3 square feet in area.
 5. Signs that are an integral part a building, including

those cut into any masonry surface, as well as signs integrated into the structure of a building constructed of bronze or other non-combustible materials.

6. Signs placed within a public right of way place by the public entity with responsibility for administering the right of way.
7. Flags.
8. Warning and safety signage attached to standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts with a surface area of no more than three square feet.

(Section 10.10.060(A)(8) was enacted by Ordinance No. 2180, adopted on April 5, 2021; effective May 5, 2021.)

- B. Each religious institution is allowed to have, in addition to signage otherwise allowed, additional signage not to exceed 48 square feet in area, including each face of any multiple faced sign. No single sign face may exceed 24 square feet, except reader boards, which may not exceed 32 square feet and bulletin boards, which may not exceed 16 square feet. The sign(s) allowed by this subsection are exempt from the maximum total display area standard.
- C. Each community center and educational institution is allowed one reader board not exceeding 32 square feet in area in addition to other allowed signs. The sign allowed by this subsection is exempt from the maximum total display area standard.
- D. Temporary signs complying with all of the following are permitted in all zones without a permit, in addition to any other permitted signs:
 1. The signs must be entirely on private property and outside of any vision clearance areas.
 2. The signs do not exceed 20 square feet of display area or any horizontal or vertical dimension of 8 feet.

3. The signs are not erected more than 90 days prior to the date of an election and they are removed within 30 days after the election.
 4. They are erected or maintained with the consent of the person or entity lawfully in possession of the premises and any structure to which they are attached.
- E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored, or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

(Chapter 10.10.070(E) was added by the adoption of Ordinance No. 2001 on March 16, 2010; effective April 15, 2010.)

10.10.065 Signs at Subdivision Entrances

One permanent sign per subdivision entrance not to exceed 16 square feet in area is permitted. Signs at subdivision entrances may be illuminated but which shall not obstruct any required vision clearance area.

10.10.070 Vehicle Signs

Any sign attached to or imprinted upon a validly licensed motor vehicle operating legally upon the streets and highways of the State of Oregon is exempt from this chapter while the vehicle is traveling upon any street or highway, or while such vehicle is parked to carry out an activity incidental to interstate commerce, but is otherwise not exempt unless:

- A. The sign is painted or otherwise imprinted upon, or solidly affixed to, the surface of the vehicle, with no projection at any point in excess of 6 inches from the surface of the vehicle.

- B. The vehicle, with the sign attached, complies with all applicable requirements of the Motor Vehicle Code required for the lawful operation thereof.

10.10.075 R-1, R-2, and R-3 Residential Districts

In all R-1, R-2, and R-3 residential districts, the following signs are allowed:

- A. One non-illuminated sign not exceeding 2 square feet.
- B. One non-illuminated temporary sign not exceeding 8 square feet in area.
- C. One non-internally illuminated sign not exceeding 20 square feet in area placed flat against the building for each apartment complex.

10.10.080 R-4 Residential District

In an R-4 residential district, the following signs are allowed:

- A. For residential uses, signs allowed in the R-1, R-2 and R-3 districts.
- B. For hotels, motels, recreational vehicle parks, and movie theaters, no more than two illuminated signs that do not exceed 100 square feet in total area. The signs may be internally or externally illuminated, but may not include electronic message signs.
- C. For all other uses, a maximum of 20 square feet of sign area per street frontage. The maximum area shall be a combination of wall and freestanding signs. Freestanding signs shall be set back a minimum of 10 feet from all property lines and shall not exceed 8 feet in height. No sign may be internally illuminated.

10.10.085 Commercial, Industrial, and Marine Districts

In commercial, industrial, and marine zoning districts, signs are allowed subject to the following parameters:

- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
- C. Each street frontage of a business shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Except within marine zoning districts or the Historic Nye Beach Design Review District, electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
 - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
 - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision does not apply to the display of time, date and temperature information.
 - 3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
 - 4. Is turned off between the hours of 11 p.m. and

6:00 a.m. unless the sign is associated with a business that is open to the public, in which case the sign may stay illuminated until the business is closed.

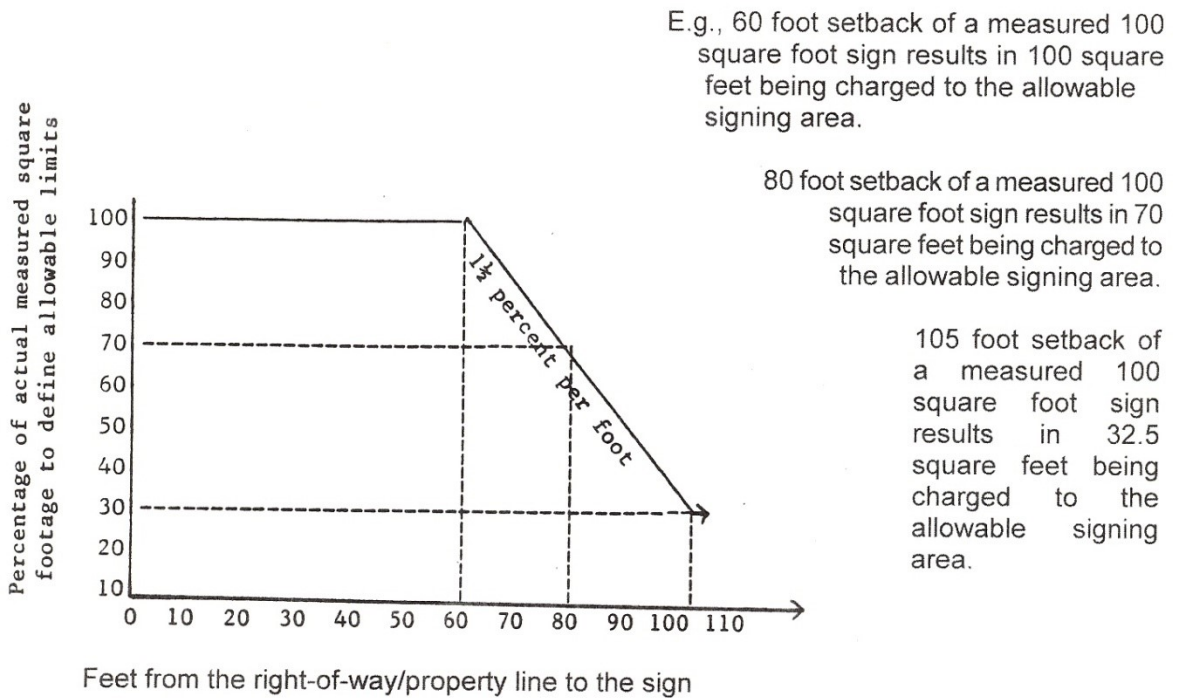
5. Does not contain or display animated, moving video, flashing, or scrolling messages.
6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.

F. Mural signs.

G. Each street frontage of a business shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.

H. Notwithstanding any limitation on total sign area, each separate business is allowed at least 50 square feet of display area.

I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



e.g., 60-foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable sign area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable sign area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable sign area.

J. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.

K. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:

1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.

2. Fifty feet or the width of the wall for wall sign horizontal dimension.
3. Except as otherwise provided by this chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

10.10.090 Signs in Shopping Centers

For shopping centers and multiple business properties, the number and size of signs are governed by this section.

- A. The maximum number of freestanding signs on shopping center properties is two and the maximum number of freestanding signs on multiple business properties is one.
- B. The maximum number of wall signs for shopping centers and multiple business properties is one per street frontage.
- C. For both shopping centers and multiple business properties, the maximum total area display area of all freestanding and wall signs and is one square foot for each lineal foot of street frontage, with a maximum of 200 square feet per sign. Only one side of a double-faced freestanding sign shall be including in the calculation of display area, provided that the sign faces are 180 degrees opposed and separated by two feet or less.
- D. In addition to the signs allowed by subsections A through C, each individual business may erect wall signs on the premises controlled by the individual business of up to two square feet of display area for each lineal foot of frontage. For the purposes of this subsection, the term frontage means the distance, measured in a straight line, along any one wall of the business premises facing and providing public access to the separate premises of the business. Where a business has entrances allowing public access on more than one frontage, wall signs may be erected for each frontage, but the display area maximum shall be calculated separately for each frontage.

- E. The provisions of NMC [10.10.085](#) for signs in commercial, industrial, or marine districts apply to shopping centers and multiple business properties except as modified by this subsection.

10.10.095 P1, P2, and P3 Public Districts

In public zoning districts, signs are allowed subject to the following parameters:

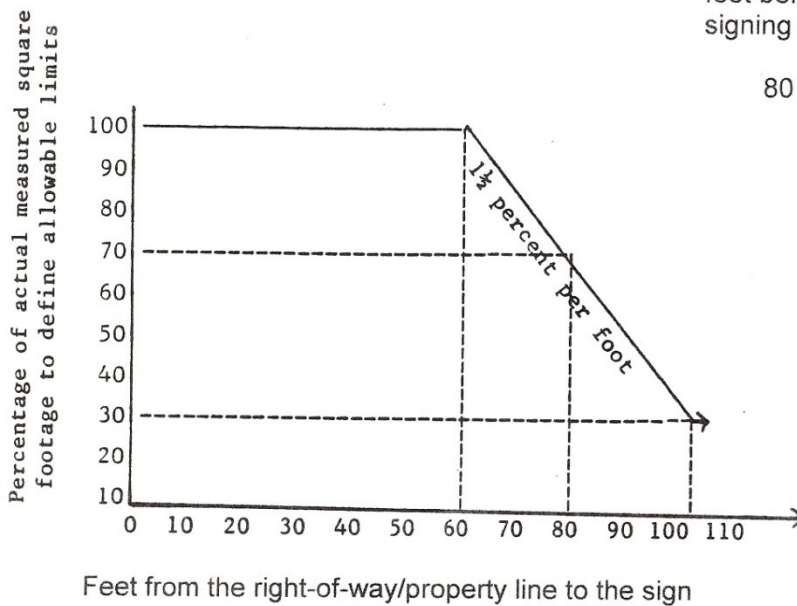
- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
- C. Each street frontage of a property shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
 - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
 - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision

does not apply to the display of time, date and temperature information.

3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
4. Is turned off between the hours of 11 p.m. and 6:00 a.m. unless the sign is associated with a facility that is open to the public, in which case the sign may stay illuminated until the facility is closed.
5. Does not contain or display animated, moving video, flashing, or scrolling messages.
6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.

F. Mural signs.

- G. Each street frontage of a property shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.
- H. Notwithstanding any limitation on total sign area, each separate building is allowed at least 50 square feet of display area.
- I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



E.g., 60 foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable signing area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable signing area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable signing area.

e.g., 60-foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable sign area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable sign area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable sign area.

- J. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.
- K. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:
 1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.

2. Fifty feet or the width of the wall for wall sign horizontal dimension.
3. Except as otherwise provided by this chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

10.10.100 Construction and Safety Requirements

All signs shall be well constructed in accordance with all applicable codes and requirements of law and shall be maintained in a safe, neat, and clean condition. Signs that are not in good repair or condition through deterioration or other reasons are prohibited and shall be either repaired or removed. If not repaired or removed by the owner, signs that are not in good repair or condition may be abated as authorized by this code.

10.10.105 Dangerous and Abandoned Signs

- A. Any sign or structure that is a nuisance or a dangerous structure may be abated as provided by city ordinances governing nuisances and dangerous structures. If the city manager or building official determines that any sign or sign structure constitutes an immediate threat, danger, or hazard to life, health, or property, the city manager or building official take any action necessary to immediately abate the risk, pursuant to the police power of the City of Newport and without prior notice.
- B. Any sign that has been abandoned or reasonably appears to be abandoned constitutes a hazard and may be abated as provided in Subsection A.

10.10.110 Removal of Signs in Rights-of-Way

Any unauthorized sign in a public right-of-way may be removed immediately without notice by the city and removed to a place of storage. A notice of removal shall be sent to any owner of the sign known to the city, notifying the owner that the sign will be destroyed unless the owner claims the sign within 20 days of the notice. If the owner is unknown to the city, no notice is required and the sign may be destroyed if unclaimed after 20 days from the date of removal. No sign removed from the right-of-way shall be returned to the owner unless the owner

pays a removal fee to the city in an amount set by Council resolution. If the city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of any sign left in the right-of-way without notice.

10.10.115 Remedies

A sign erected or maintained in violation of this chapter is a nuisance and a civil infraction. The city may pursue any one or more of the legal, equitable administrative and self-help remedies legally available to it. All remedies of the city, both as a governmental body and otherwise are cumulative.

10.10.120 Nonconforming Signs

- A. The purpose of this section is to discourage nonconforming signs and to work toward eliminating or removing nonconforming signs or bringing them into conformity with this chapter. Nonconforming signs shall not be enlarged, expanded or extended, nor used as grounds for adding other structures or signs otherwise prohibited.
- B. A nonconforming sign may not be altered as to size, message, or construction, except that common and ordinary maintenance to maintain the sign in a good and safe condition is allowed, including incidental structural repair or replacement.
- C. If a nonconforming sign is damaged or destroyed by any cause including normal deterioration to the extent that the cost of repair shall exceed 50% of the replacement value of the sign, the sign may not be repaired or restored, and may be replaced only by a sign conforming to the provisions of this chapter.

10.10.125 Content and Interpretation

This chapter and [Chapter 10.15](#) do not regulate the content of signs and shall be interpreted as not regulating content. These chapters shall be interpreted if at all possible to be consistent with constitutional protection of expression, and any provision that unconstitutionally restricts expression shall not be enforced, and the

remainder of the provisions shall continue to be applicable and shall be applied constitutionally.

10.10.130 Variance Requirements

Any person may seek a variance to the numerical provisions of this chapter or of [Chapter 10.15](#) by filing a written application. The procedure and process applicable to zoning adjustments and variances (including but not limited to the notification process, public hearing process, conditions of approval, time limitations, and revocation of permits as applicable for the type of adjustment or variance requested) shall be followed. The fee shall be the same as for a zoning adjustment or variance. The criteria for the sign variance shall be as specified below. In addition to the requirements for submitting a zoning adjustment or variance, a sign inventory including the location, type, and size of each sign on the property shall be submitted with the application.

- A. All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type III Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.
- B. All sign variance applications based on a change in a sign or signs that decreases but does not eliminate an existing nonconformity shall be determined by the community development (planning) director using a Type I Adjustment procedure, based on a determination that the proposal will result in a reduction of the nonconformity without increasing any aspect of nonconformity.

10.10.135 Violations

A violation of this chapter or of [Chapter 10.15](#) is a civil infraction, with a civil penalty not to exceed \$500. The penalty for a second or subsequent violation within two years may be up to \$1,000. A violation occurs on the date of the occurrence of the act constituting the violation.

Each violation is a separate infraction, and each day in which a violation occurs or continues is a separate infraction.

(Chapter 10.10 was enacted by Ordinance No. 2037 on May 21, 2012; effective June 20, 2012.)

(Chapter 10.10 was repealed and re-enacted by Ordinance No. 2075; adopted on January 5, 2015; effective February 5, 2015.)

10.10.140 Sign Adjustment and Variance Requirements

A. Purpose. Adjustments and Variances to the numerical standards of the sign code are intended to allow flexibility while still fulfilling the purpose of the Code.

B. Procedure.

1. Any person may seek an Adjustment or Variance to the numerical provisions of this Chapter or of [Chapter 10.15](#) by filing an application with the Community Development Director or designate on a form prescribed for that purpose. Upon receipt of an application, the Director or designee shall determine if the request shall be processed as an Adjustment or as a Variance according to the procedure provided in Section 14.33.030 of the Zoning Ordinance.
2. The fee shall be the same as for a zoning Adjustment or Variance. No Adjustment or Variance shall be permitted that would negate the provisions of NMC [Section 10.10.045](#), Prohibited Signs.
3. In addition to the application submittal requirements of [Section 14.33.040](#) of the Zoning Ordinance, the applicant must provide an inventory of all signs including the location, type, and size of each sign on the property.
4. Approval criteria in (C) below are to be used when evaluating applications for Adjustments or Variances to the sign code, rather than those provided in [Section 14.33.050](#) of the Zoning Ordinance.

- C. Criteria. The approval authority must find that the application for an Adjustment or Variance complies with the following criteria:
1. The Adjustment or Variance is consistent with the purposes of the sign code, as provided in [Chapter 10.10.010](#) or [10.15.005](#) of the Newport Municipal Code, as applicable; and
 2. The Adjustment or Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
 3. The Adjustment or Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

(Chapter 10.10.140 was enacted by Ordinance No. 2090, adopted on January 19, 2016; effective February 18, 2016.)

Derrick Tokos

From: David Allen
Sent: Tuesday, January 30, 2024 4:42 PM
To: Derrick Tokos
Subject: Re: St. Helens

See last few paragraphs of court opinion below in another context ...

<https://law.justia.com/cases/oregon/court-of-appeals/1973/513-p-2d-532-0.html>

From: David Allen
Sent: Tuesday, January 30, 2024 4:13 PM
To: Derrick Tokos
Subject: St. Helens

Language in sec. 17.88.130(6) of St. Helens municipal code (link below): "Sign permits mistakenly issued in violation of this chapter or other provisions of this code are void."

<https://www.codepublishing.com/OR/StHelens/html/StHelens17/StHelens1788.html#17.88.130>

Clackamas County v. Emmert

Annotate this Case

513 P.2d 532 (1973)

CLACKAMAS COUNTY, a Political Subdivision of the State of Oregon, Respondent, v. Terry W. EMMERT and Kathleen M. Emmert, Husband and Wife, Appellants.

Court of Appeals of Oregon.

Argued and Submitted June 19, 1973.

Decided August 27, 1973.

Rehearing Denied September 26, 1973.

Review Denied November 13, 1973.

*533 Paul Gerhardt, and Gary M. Bullock, Portland, argued the cause and filed the briefs for appellants.

Richard F. Crist, Deputy Dist. Atty., Oregon City, argued the cause for respondent. On the brief were Roger Rook, Dist Atty., and Robert D. Burns, Deputy Dist Atty., Oregon City.

Before SCHWAB, C.J., and LANGTRY and FORT, JJ.

LANGTRY, Judge.

This appeal is from a circuit court decree in a zoning case in which the court found that the use by defendants of certain real property for duplex residence buildings was a nuisance in violation of the Clackamas county zoning ordinance and ORS ch. 215. The decree ordered defendants to abate the nuisance and enjoined them from maintaining duplex residence buildings upon the subject property.

Questions presented on appeal are: (1) whether two amendments to the county zoning ordinance were erroneously received in evidence; (2) whether either of the amendments are invalid because of vagueness or insufficient notice of public hearing prior to enactment; and (3) whether it was error to find that the county is not estopped from claiming the land is zoned to exclude the duplexes.

The complaint, besides necessary formalities, alleged passage of the original zoning ordinance in 1960, an October 31, 1969 amendment thereof, and "* * * At all times material herein said [defendants'] real property was and is zoned RA-1 (Rural Agriculture Single Family Residential)." It alleged that defendants had placed upon the property two duplexes as residences for four families and asked for the relief which was subsequently granted.

In the answer defendants generally denied the complaint. In one affirmative defense they alleged that they had obtained permission from " * * * the staff of the Clackamas County Planning Commission * * * " to move the duplexes upon the property because it was " out of permit area"; that permission for location of the duplexes also was granted by the Clackamas county health department; that in moving the structures upon the property they incurred substantial expense and would be required to incur substantial additional expense if they were required to move the duplexes or to separate them into single family residences; and that the permit issued by the planning staff was a result of negligence or of the fact that the property was not lawfully zoned RA-1 and therefore plaintiff should be estopped from seeking to enforce the ordinance. A second affirmative defense alleged the ordinance amendments were invalid because they were not enacted pursuant to law. These matters were placed at issue. The October 1969 amendment to the zoning ordinance and another amendment to the ordinance dated July 13, 1970 were received in evidence.

(1). Defendants contend that, inasmuch as the 1969 amendment was not pleaded by title and date of passage and the complaint made no reference to the 1970 amendment, evidence of either of them should not have been admitted. ORS 16.510(2) provides that in pleading an ordinance *534 it is sufficient to refer to the ordinance by its title and date of passage and that the court shall thereupon take judicial notice thereof. Defendants' contention stems from this statute. The contention is untenable because the complaint alleges that at all material times the property was zoned RA-1. The defendants' general denial included this allegation. Both of the ordinance amendments were relevant to prove the facts thus at issue. It is not a question here whether the court will take judicial notice of the ordinance amendments but rather a question of proof of a fact.

(2). The validity of the 1969 and 1970 amendments to the zoning ordinance is challenged for (a) vagueness and (b) insufficient notice of a public hearing prior to their enactment as required by the provisions of ORS 215.223(1). That statute requires notice of public zoning hearings 10 days in advance of each hearing " * * * published in a newspaper of general circulation in the county * * * ." Formal requisites of the published notice are not otherwise provided for.

(a). The October 1969 ordinance amendment fails to inform the reader which areas are zoned RA-1 and which are C-2 and for this reason it appears to be invalid, at least insofar as the subject property is concerned. Lane County v. Heintz Const. Co. et al, 228 Or. 152, 161, [364 P.2d 627](#) (1961). However, this does not invalidate the zoning because the July 1970 amendment corrected the defects of the October 1969 amendment, for that amendment which is in the record shows without question that defendants' property is zoned RA-1. The validity of the 1969 ordinance amendment thus becomes irrelevant.

(b). The record contains a copy of the Oregon City Enterprise Courier dated June 26, 1970. In that paper a "public notice" was published which was a recitation of a complete order of the county commissioners directing the clerk to publish notice. It was much longer than a simple notice of the hearing needed to be and undoubtedly cost more to publish than such a public notice should have. Nevertheless, it was entitled "In the Matter of Calling a Hearing on the Adoption of New Zoning Area Maps." The body of the notice published on June 26, 1970 contained extraneous matter, but it included:

" * * * [T]he County Planning Commission made a recommendation to the Board to adopt new zoning maps for the following described areas * * * All Sections lying within * * * Township 3S, Range * * * 3 * * E [defendants' property is in Section 6, Township 3S, Range 3E] * * * . "It * * * appearing * * * that pursuant to * * * Ordinance, the Board * * * shall hold a hearing * * * . "IT IS HEREBY ORDERED that the hearing * * * be held on the 8th day of July, 1970, at the hour of 10:00 A.M., in Room 201, County Courthouse * * * to afford the general public an opportunity to be heard * * * ."

An exhaustive annotation in 96 A.L.R.2d 449 (1964) discusses cases which have adjudicated requirements of statutory notice prerequisite to adoption or amendment of zoning ordinances. Another Annotation, 38 A.L.R.3d 167 (1971) similarly treats notice requirements for exceptions and variances

to zoning ordinances. Where, as at bar, the statutory requirement is general in nature, the annotators state that the rule is that the notice contents need only " * * * reasonably apprise those interested that the contemplated action is pending" (96 A.L.R.2d, supra, at 497) so long as property owners " * * * can reasonably ascertain from it that property in which they are interested may be affected" (96 A.L.R.2d, supra, at 504). The notice at bar stated the time and place of the hearing and it was published more than 10 days in advance thereof. We hold that it reasonably apprised defendants, who could see that their previously unzoned property *535 was included, that zoning was contemplated therefor and that it told them when and where they could be heard thereon. Thus, although the notice left much to be desired, it was adequate to meet the requirements of ORS 215.223(1) and due process.

(3). Defendants claim the county should have been held estopped from enforcing the RA-1 zone. The chronology of events upon which the claim of estoppel rests follows: October 7, 1969 defendants purchased the property. Defendant Terry W. Emmert testified that upon checking with the planning department before buying he was told the property was unzoned. He testified that in February 1970 he again checked with the planning department for procedures necessary to obtain permission to move multi-unit buildings onto the property and was again told the property was unzoned. March 6, 1970 defendants obtained from the county board of health approval for use of septic tanks for multi-unit buildings upon the property. July 13, 1970, after the published notice already mentioned, the property was zoned RA-1. October 1970 defendants obtained a permit from the county public works department to move two duplexes over the highway to the property. To obtain this permit defendants were required to obtain approval from the Clackamas county building section which was a section of the planning department. When defendants checked with the building section they received approval of the permit to move the duplexes onto the property because the property was "out of permit area" where building permits were required. From the latter defendant testified he inferred the property was not subject to zoning restriction. October 13, 1970 the duplexes were moved onto the property and shortly neighbors complained to the planning department, after which notification was given on November 17, 1970 to the defendants that the duplexes were in violation of the zoning ordinance. Defendants applied for a zoning change and then, after some time and changes in the application, it was finally turned down. During the time elapse between notification and final turn down of the application for zone change, the defendants made substantial expenditures to complete the installation of the duplexes.

Defendants have not pleaded the elements of an estoppel, which often have been recited as follows:

"To constitute an equitable estoppel, or estoppel by conduct, (1) there must be a false representation; (2) it must be made with knowledge of the facts; (3) the other party must have been ignorant of the truth; (4) it must have been made with the intention that it should be acted upon by the other party; and (5) the other party must have been induced to act upon it. State v. Claypool, 145 Or. 615, 28 P.2d 882; Bramwell v. Rowland, 123 Or. 33, 261 P. 57; Oregon v. Portland Gen. Elec. Co., 52 Or. 502, 528, 95 P. 722, 98 P. 160; 31 C.J.S. Estoppel § 67 page 254." Earls et ux v. Clarke et al, 223 Or. 527, 530-531, [355 P.2d 213](#), 214 (1960).

If these elements had been specifically pleaded there clearly was a lack of proof with reference to (2) and (4) and much question as to the proof of (1).

The lack of coordination between the county departments and employes handling zoning, health and building matters provided cause for defendants to complain in this case, even though the elements of estoppel were not pleaded or proven enough to make us examine the application of the law of estoppel to this kind of situation. Such examination discloses a general rule which excludes use of the estoppel doctrine, with a line of cases which appears to be to the contrary. Perhaps the conflict can be, at least in part, explained by noting that some courts seem to have confused the defense of laches with that of estoppel.

In Bankus v. City of Brookings, 252 Or. 257, [449 P.2d 646](#) (1969), where estoppel was sought to be raised against a city to prevent it from revoking a construction permit that had been issued by city

employees without compliance with the ordinance *536 requirements therefor, the court said:

"* * * Nor may a city be estopped by the acts of a city official who purports to waive the provisions of a mandatory ordinance or otherwise exceeds his authority. Cabell et al v. Cottage Grove et al, 1943, 170 Or. 256, 130 P.2d 1013; Anno. 1 A.L.R.2d 338 at 349 et seq. and particularly, City of Milwaukee v. Leavitt, 1966, 31 Wis.2d 72, 142 N.W.2d 169." (Emphasis supplied.) 252 Or. at 260, 449 P.2d at 648.

The citation to Annotation, 1 A.L.R.2d 338, 349 (1948) reveals that the general rule regarding estoppel is as our Supreme Court has stated. However, the annotator notes that as with all rules there are exceptions. 1 A.L.R.2d at 353. See also 1 Yokley, Zoning Law and Practice 446, 447 et seq., § 10-8 (3d ed 1965).

In this regard defendants rely heavily on Cities Ser. Oil Co. v. City of Des Plaines, 21 Ill. 2d 157, 171 N.E.2d 605 (1961), where plaintiff in reliance upon a building permit had expended over \$5,000. Seven months after the permit was issued the city sought to revoke the permit, citing ordinance violations. Plaintiff brought suit to enjoin enforcement of the ordinance and the court stated:

"* * * There is no doubt that if one is aware of the applicable ordinance, or makes no attempt to know of it, the issuance of a permit contrary thereto does not create an estoppel against the city to forbid any further work on the building. Sinclair Refining Co. v. City of Chicago, 246 Ill. App. 152. It is also true that even in the absence of such knowledge, the mere issuance of an unauthorized permit and reliance thereon to one's injury does not provide grounds for relief. Burton Co. v. City of Chicago, 236 Ill. 383, 86 N.E. 93. In the case at bar, however, the lapse of seven months without any attempt to revoke the permit constitutes conduct on the part of city authorities from which it could reasonably be inferred that its issuance was, in effect, ratified. See City of El Paso v. Hoagland, 224 Ill. 263, 79 N.E. 658. We conclude that the facts and circumstances of this case are sufficient to raise an equitable estoppel against the city." 21 Ill. 2d at 163, 171 N.E.2d at 609.

We note that the material fact upon which the case turned that is, the lapse of seven months without action sounds more of laches than estoppel. Regardless of terms, the case is distinguished from the case at bar because here the county planning department took steps to inform defendants by letter that the duplexes were in violation of the zoning ordinance as soon as the matter was brought to its attention. Defendants ignored this letter and went on to complete their project. There was no implied ratification of the prior representations that the area was unzoned (if indeed the evidence can be construed as proving that the approval of the septic tanks or moving permits was such a representation).

In addition, Milwaukee v. Leavitt, 31 Wis.2d 72, 142 N.W.2d 169 (1966), specially relied upon by our Supreme Court in Bankus v. City of Brookings, supra, supports a finding that even viewing the facts in the light most favorable to defendants and ignoring the notice they received that they were violating the zoning ordinance, the estoppel doctrine should not be applied. There defendant had been issued an occupancy permit in 1961. He spent \$2,500 to alter the building for the use stated in the permit. In 1964 the city revoked his permit as contra to the zoning ordinance and ordered the use terminated. The court held that estoppel would not apply, stating:

"Zoning ordinances are enacted for the benefit and welfare of the citizens of a municipality. Issuance of an occupancy or building permit which violates such an ordinance not only is illegal per se, but is injurious to the interests of property owners and residents of the neighborhood adversely affected by the violation. Thus when the city acts to revoke *537 such an illegal permit it is exercising its police power to enforce the zoning ordinance for the protection of all citizens who are being injured by the violation, and not to protect some proprietary interest of the city. These citizens have a right to rely upon city officials not having acted in violation of the ordinance, and, when such officials do so act, their acts should not afford a basis for estopping the city from later enforcing the ordinance. This is true regardless of whether or not the holder of the illegal permit has incurred expenditures in reliance thereon." 31 Wis.2d at 78-79, 142 N.W.2d at 172.

We conclude that even if the estoppel were pleaded and proven in all the necessary elements, or if all elements were unnecessary of proof under exceptions to general rules, it nevertheless would not lie against the county's enforcement of the zoning ordinance in this case.

Affirmed.

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 2-VAR-23, APPLICATION FOR A)
SIGN VARIANCE, AS SUBMITTED BY THE PORT) FINAL
OF NEWPORT (AARON BRETZ, AUTHORIZED) ORDER
REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a laminated freestanding sign with 114 sq. ft. of display area (i.e. 12-ft. wide x 9-ft. 6-in. tall). The sign will be placed at Port Dock 1, which possesses roughly 21-ft of frontage along SW Bay Boulevard. Freestanding signs in marine districts are limited to one sq. ft. of display area for each lineal foot of street frontage (Section 10.10.085(B)), meaning a sign at this location is limited to 21 sq. ft. of display area (effectively a 5-ft x 4-ft display area). Properties are also limited to a single freestanding sign and this location already has one, that being the Port of Newport Port Dock 1 identification sign. The property subject to the variance application is located at Port Dock 1 (adjacent to Clearwater Restaurant at 325 SW Bay Blvd). It is identified as Tax Lot 02400, on Lincoln County Assessor’s Map 11-11-08-DB. The upland area is roughly 435.6 sq. ft. per County assessment records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the application for a variance, with the public hearing a matter of record of the Planning Commission on June 12, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the sign variance.

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 variance as requested by the applicant with the following condition(s):

- 1. The applicant shall obtain a City of Newport sign permit for the signage conceptually described in this variance application.

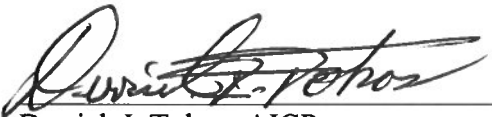
BASED UPON THE ABOVE, the Planning Commission determines that the application for a sign variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 10th day of July, 2023.



 Bill Branigan, Chair
 Newport Planning Commission

Attest:



 Derrick I. Tokos, AICP
 Community Development Director

EXHIBIT "A"

Case File No. 2-VAR-23

FINDINGS OF FACT

1. Port of Newport (Aaron Bretz, authorized representative) submitted a request on April 19, 2023, for approval of a Type III variance pursuant to Newport Municipal Code Section 10.10.130 of the City of Newport Municipal Code to allow a laminated freestanding sign with 114 sq. ft. of display area (i.e. 12-ft. wide x 9-ft. 6-in. tall). The sign will be placed at Port Dock 1, which possesses roughly 21-ft of frontage along SW Bay Boulevard. Freestanding signs in marine districts are limited to one sq. ft. of display area for each lineal foot of street frontage (Section 10.10.085(B)), meaning a sign at this location is limited to 21 sq. ft. of display area (effectively a 5-ft x 4-ft display area). Properties are also limited to a single freestanding sign and this location already has one, that being the Port of Newport Port Dock 1 identification sign.

2. The property subject to the variance application is located at Port Dock 1 (adjacent to Clearwater Restaurant at 325 SW Bay Blvd). It is identified as Tax Lot 02400, on Lincoln County Assessor's Map 11-11-08-DB. The upland area is roughly 435.6 sq. ft. per County assessment records.

3. Staff reports the following facts in connection with the application:
 - A. Plan Designation: Shoreland.
 - B. Zone Designation: W-2/"Water-Related."
 - C. Surrounding Land Uses: Tourist oriented retail and commercial fishing facilities.
 - D. Topography: Moderately sloping into Yaquina Bay. Port Dock One is constructed on piling, extending out over the bay. The decking is relatively level and it is at street grade. The dock is subject to a lease with the Department of State Lands in the tidal influenced areas.
 - E. Existing Structures: Publicly accessed dock and freestanding sign identifying the dock as Port Dock 1.
 - F. Utilities: All are available to the subject property.
 - G. Past Land Use Actions: *File #1-EUP-14*, an estuarine use permit authorizing the installation of pile and a new floating dock for use by the sea lions. A second phase of the project involves the installation of a 80 foot long by 6 foot wide public viewing platform abutting the pier of Port Dock One.

4. Explanation of the Request: The Port of Newport is requesting approval of the installation of a 144 in x 114 in laminated sign depicting the Newport Bridge and Yaquina Bay. It will include text for "Newport Oregon," "Discover Newport," and the web address for the Newport Sea Lion Foundation "newportsealions.com." The applicant notes that the sign was approved by the Discover Newport Committee in 2021 and funded using transient tax dollars via the Newport Chamber and Discover Newport. It is to be built locally by Newport Signs Company.

The sign will be 11-ft, 6-in. tall and is to be secured to deck railing on the south side of the walkway entering Port Dock 1, with the northeasterly elevation of the Clearwater Restaurant building serving as a backdrop. The applicant indicates that this portion of the dock is on the upland area of the property that would not be subject to the terms of a Department of State Lands lease. A graphic

illustration of the sign, including how and where it will be placed on the dock, is included as Attachment "E."

5. Applicable Criteria. Per Newport Municipal Code (NMC) Section 10.10.140(C), the Planning Commission must find that the application for a sign variance complies with the following criteria:

- A. The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and
- B. The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and
- C. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

6. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on May 23, 2023, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 p.m., June 12, 2023. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on June 2, 2023. The Community Development Department received no comments from any of the affected parties.

7. A public hearing was held on June 12, 2023. At the hearing, the Planning Commission received the staff report and received oral testimony from Aaron Bretz with the Port of Newport, Janell Goplen, with Clearwater Restaurant, and Camille Fournier with the Sea Lion Foundation. The applicant waived their right to provide rebuttal testimony and the Commission closed the hearing, deliberated, and elected to approve the variance based upon the findings outlined herein.

8. The minutes of the June 12, 2023, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with attachments is hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

- Attachment "A" – Application form
- Attachment "B" – Applicant's narrative
- Attachment "C" – Lincoln County Property Record Card
- Attachment "D" – Record of Survey No. 11713
- Attachment "E" – Illustration of the size and location of the freestanding sign
- Attachment "F" – Public hearing notice

CONCLUSIONS

Regarding the applicable criteria for the variance application, the following conclusions can be made:

A. *The variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 of the Newport Municipal Code, as applicable; and.*

The purposes of the Newport Sign Code are:

- *To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.*
- *To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.*
- *To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.*
- *To prevent distraction of motorists, bicyclists and pedestrians.*
- *To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.*
- *To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.*
- *To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.*
- *To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.*

1. The applicant's narrative, submitted by the Newport Sea Lion Foundation, lists the "purpose" provisions of the sign code and explains why they believe the proposed sign is consistent with the stated objectives (Attachment "B"). They view the large face of the sign as an attractive tourist promotion feature where visitors can take pictures of themselves while visiting the sea lions. The applicant also explains that the style and design of the sign is aesthetically pleasing and that its location, secured to railing adjacent to the Clearwater Restaurant building, will not interfere with pedestrian traffic. The applicant also points out that the sign should not be a distraction to motorists, cyclists, or pedestrians given that it is located away from highly travelled areas.
2. The Commission reviewed the applicant's narrative, as it relates to each of the listed purpose provisions, and concludes that the proposed sign is consistent with those provisions.

B. *The variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and.*

1. The Commission finds that the applicant's proposal, illustrated in Attachment "E," exhibits exceptional design and style that emphasize artistic elements as opposed to text messaging. In this way, the proposal is akin to a mural sign, a type of signage that is common along the Bayfront and which is not subject to display area dimensional limitations.
2. The proposed sign will conceal from view a portion of the Port Dock 1 railing, along with fencing and a staircase on the Clearwater Restaurant property. These are ancillary architectural elements, and there is no signage on the portion of the Clearwater building that this sign would compete with or highlight. Further, the Commission considers the presence of the sea lions at Port Dock 1 as an exceptional circumstance justifying the sign variance.

C. The variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

1. The Port of Newport has a large freestanding sign further down the dock, and there are a number of murals and signs of various sizes along the Bayfront at street level. For these reasons, the Commission finds that a sign of this size will not cause or significantly increase street level sign clutter. The sign will also be placed far enough down the Port Dock 1 walkway that it shouldn't be a traffic hazard. The City requires a sign permit to ensure that the sign structure is secured such that it will not pose a safety hazard. Provided that permit is obtained, the Commission concludes that this criterion has been satisfied.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the application complies with the criteria for granting a sign variance, and, therefore, the application is **APPROVED** with the following conditions of approval:

1. The applicant shall obtain a City of Newport sign permit for the signage conceptually described in this variance application.

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

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 3-VAR-18, APPLICATION FOR A)
VARIANCE, AS SUBMITTED BY SAMARITAN) FINAL
PACIFIC COMMUNITIES HOSPITAL (MATTHEW) ORDER
BROWN, INNERFACE ARCHITECTURAL SIGNAGE,)
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a wall sign to be placed at a height that exceeds the 30-foot height limitation requirement. Section 10.10.095(J) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign. The applicant is further requesting a variance to allow a total of five signs, two of which would be wall signs and three of which will be freestanding signs along SW 9th Street. Section 10.10.095(C) of the Newport Municipal Code limits the total number of signs at this location to three, one of which may be other than a wall sign. Lastly, the applicant seeks a variance to the 200 sq. ft. sign area limitation per street frontage listed in Section 10.10.095(G) for that portion of the campus facing SW 9th Street. The wall signs by themselves will be 312.5 sq. ft. in size. The property is located at 930 SW Abbey Street (Blocks 18, 19, 21 and 22 Bayley and Case’s Addition to Newport, together with that portion of vacated SW Case Street and that portion of SW 10th Street inuring thereto.)

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held public hearings on the request for a variance, with the public hearings a matter of record of the Planning Commission on September 10, 2018 and September 24, 2018; and
- 3.) At the public hearings on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearings, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the variance.

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 variance as requested by the applicant with the following condition(s):

1. Wall mounted and freestanding signs for the Samaritan Pacific Communities Hospital campus shall conform to the schematic drawings prepared by Innerface Architectural Signage Inc., dated August 21, 2018 (Exhibit B).
2. Placement of freestanding signs may be adjusted to address final site design and vehicle line of site considerations.


BASED UPON THE ABOVE, the Planning Commission determines that the request for a variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 22nd day of October, 2018.



James Patrick, Chair
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 3-VAR-18

FINDINGS OF FACT

1. Samaritan Pacific Communities Hospital (Matthew Brown, Innerface Architectural Signage, authorized representative) submitted a request on August 21, 2018, for approval of a Type III variance pursuant to Section 10.10.130 of the Newport Municipal Code (NMC) to allow a wall sign to be placed at a height that exceeds the 30-foot height limitation requirement. Section 10.10.095(J) of the Newport Municipal Code limits sign height to 30 feet from grade to the top of the sign. The applicant is further requesting a variance to allow a total of five signs, two of which would be wall signs and three of which will be freestanding signs along SW 9th Street. Section 10.10.095(C) of the Newport Municipal Code limits the total number of signs at this location to three, one of which may be other than a wall sign. Lastly, the applicant seeks a variance to the 200 sq. ft. sign area limitation per street frontage listed in Section 10.10.095(G) for that portion of the campus facing SW 9th Street. The wall signs by themselves will be 312.5 sq. ft. in size.

2. The property subject to the variance application is located at 930 SW Abbey Street (Blocks 18, 19, 21 and 22 Bayley and Case's Addition to Newport, together with that portion of vacated SW Case Street and that portion of SW 10th Street inuring thereto.). It is roughly 7.5 acres in size per County assessment records.

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

- a. Plan Designation: Public.
- b. Zone Designation: P-1/"Public Structures."
- c. Surrounding Land Uses: Surrounding uses include a mixture of medical and commercial uses to the west and south, medical and residential to the east and residential to the north.
- d. Topography: The property is s is gradually sloped and the developed areas are landscaped.
- e. Existing Structures: Hospital, medical office buildings, helipad and parking.
- f. Utilities: All are available to the subject property.
- g. Past Land Use Actions:

File No. 1-VAR-18. Authorized the mechanical penthouse on their three-story hospital addition to be expanded from 3,530 square feet to 3,770 square feet. The change allowed a 240 square foot awning to be placed on the air handling unit.

File No. 1-VAR-17. Authorized a 10-foot height variance for the mechanical penthouse on a three-story addition to an existing hospital. The size of the mechanical penthouse was approved at 3,530 square feet.

File No. 1-SV-15. A street vacation initiated by the City Council, at the request of Samaritan Pacific Health Services, Inc. on behalf of Pacific Communities Health District, for portions of SW 10th Street from SW Bay Street north to SW Case Street; SW Case Street from SW 10th Street east to SW 11th Street; and an alley between and parallel to SW 10th and 11th Streets from SW Bay Street north to SW Case Street. The street vacation was approved by the City Council on November 2, 2015 (Ord. No. 2087). File No. 3-CP-16/5-Z-16. Amendments to the Newport Comprehensive Plan Map from High Density Residential to Public and the Newport Zoning Map from R-4/"High Density Multi-Family Residential" to P-1/"Public Structures" in order to facilitate a hospital expansion. The application was filed by the Pacific Communities Health District (Minor, Bandonis & Haggerty PC, agent) and was approved by the City Council on February 7, 2017 (Ord. No. 2109).

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on August 21, 2018, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., September 10, 2018. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on August 31, 2018. The Community Development Department received no comments from any of the affected parties.

5. A public public hearing was held on September 10, 2018. At the hearing, the Planning Commission received the staff report and received oral testimony from the applicant's representative. The minutes of the September 10, 2018, meeting are hereby incorporated by reference into the findings. The Planning Staff Report with attachments is hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

- Attachment "A" – Application form
- Attachment "B" – Applicant's narrative
- Attachment "C" – Schematic drawing of the existing monument sign
- Attachment "D" – Public hearing notice
- Attachment "E" – Municipal Code Chapter 10.10 (Sign Regulations)

6. At the close of the September 10, 2018 hearing, the Planning Commission advised the applicant that it was concerned that their application did not included sufficient justification for the wall mounted hospital identification sign, as that sign by itself was 297.5 sq. ft. in size. The applicant asked that the hearing be continued so that they could submit additional materials, and the Commission granted the request. The hearing was continued to September 24, 2018.

7. For the September 24, 2018 hearing, the applicant submitted a slideshow that included renderings of what the wall mounted sign would look like from vantage points along US 101, examples of

similar signage at other medical facilities, dimensions of the hospital's existing freestanding signage, and a chart listing industry standards for letter height relative to readable distance. This information, along with an accompanying staff cover memo and the minutes from the September 24, 2018 Commission meeting, are incorporated by reference into the findings.

8. In their application, the applicant notes that the variance requests support a sign plan that uses a hierarchy of sign types to promote clearer and more efficient wayfinding within the Samaritan Pacific Communities Hospital campus. They assert that these signs cannot be looked at independently, but must be viewed as a holistic wayfinding system that takes into consideration the distressed nature of the visitor, site constraints and challenges, and applicable sign guidelines. The applicant notes that all signs have been placed at critical decision making points for both drivers and pedestrians, with the primary focus on ensuring visitors are effectively directed to the Emergency Department and to the appropriate medical entries. Samaritan Pacific Communities Hospital has changed organically over many years. For many visitors it is confusing. The applicant indicates that the layout of the campus combined with topography of the campus has driven both the quantity and placement of signs. None of the signs shown in our plans have been placed arbitrarily or unnecessarily. They further emphasize that the ability to find a location on a hospital campus can be a life or death situation.

9. Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

10. The applicable criteria for a variance are found in Newport Municipal Code (NMC) Section 10.10.130, which states that: *"approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant."*

CONCLUSIONS

1. In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

2. The applicant argues a variance to City standards related to the maximum height and size of wall mounted signs is necessary in order for the public to find the hospital, which may be a life or death situation. Similarly, with respect to standards that limit the total number of signs, the applicant points to the array of specialized medical services performed at modern medical facilities and the hardship they would face if, in complying with the code, they cannot provide adequate wayfinding to persons in need of such services. The chart the applicant submitted listing industry standards for sizing signs identifies a letter height of 30" inches as the ideal

height for maximum readable impact at 300-feet. A schematic drawing provided by the applicant shows that the wall mounted hospital identification sign will be visible from US 101 at this distance. The applicant's proposal lists the letter height for this sign at 42-inches. The applicant did not provide a clear explanation as to why the 30-inch letter height, recommended by standards they submitted, would not be sufficient at this location. This was a cause of concern for some Commission members. A majority of the Commission; however, found that the hospital is in the business of saving lives and that they are in the best position to know what is needed in terms of wayfinding signage to ensure that patrons, many of whom may not be familiar with Newport, can get to critical medical services in a timely manner. The life safety nature of this land use coupled with the array of specialized medical services performed at the facility constitutes a special hardship beyond the control of the applicant, and the Commission concluded that the signage proposal provided by the applicant is the minimum needed to alleviate the hardship.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has demonstrated compliance with the criteria for granting a variance, and, therefore, the request is **APPROVED** with the following conditions of approval:

1. Wall mounted and freestanding signs for the Samaritan Pacific Communities Hospital campus shall conform to the schematic drawings prepared by Innerface Architectural Signage Inc., dated August 21, 2018 (Exhibit B).
2. Placement of freestanding signs may be adjusted to address final site design and vehicle line of site considerations.

Exterior Design Development & Wayfinding

Regional Map: Lincoln County

Draft (1) 08.21.18



Samaritan
Pacific Communities
Hospital

INNERFACE

ARCHITECTURAL
SIGNAGE, INC.

5849 PEACHTREE ROAD
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T 770 921 5566
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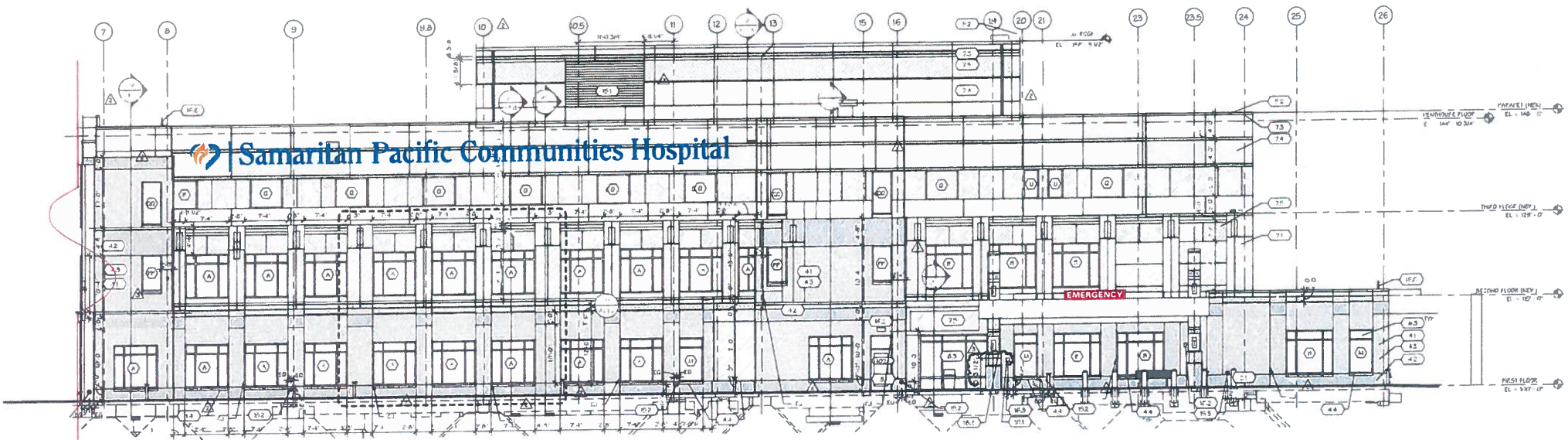


Samaritan Pacific Communities Hospital

Detail View
Scale: 1/8" = 1'-0"

Campus Identification:

- Internally illuminated individual pan channel letters/logo - 42" cap Letters
- w/ translucent acrylic faces and LED illumination. - 63" x 8" Accent Bar
- Self-contained units with internal power packs - 66" x 63" Logomark



Partial West Elevation

Scale: 1/16" = 1'-0"

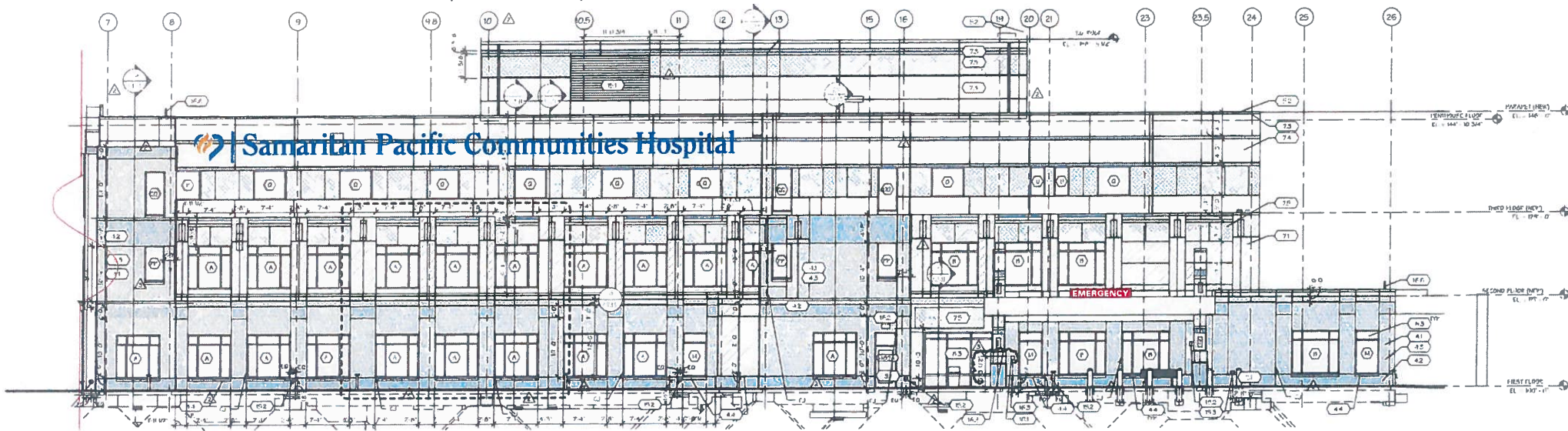


Detail View
Scale: 1/2" = 1'-0"

Entry Identification:

Internally illuminated cabinet
w/ translucent acrylic face and LED illumination.
Translucent red vinyl background w/ reversed white copy
Base mount to top of building canopy.

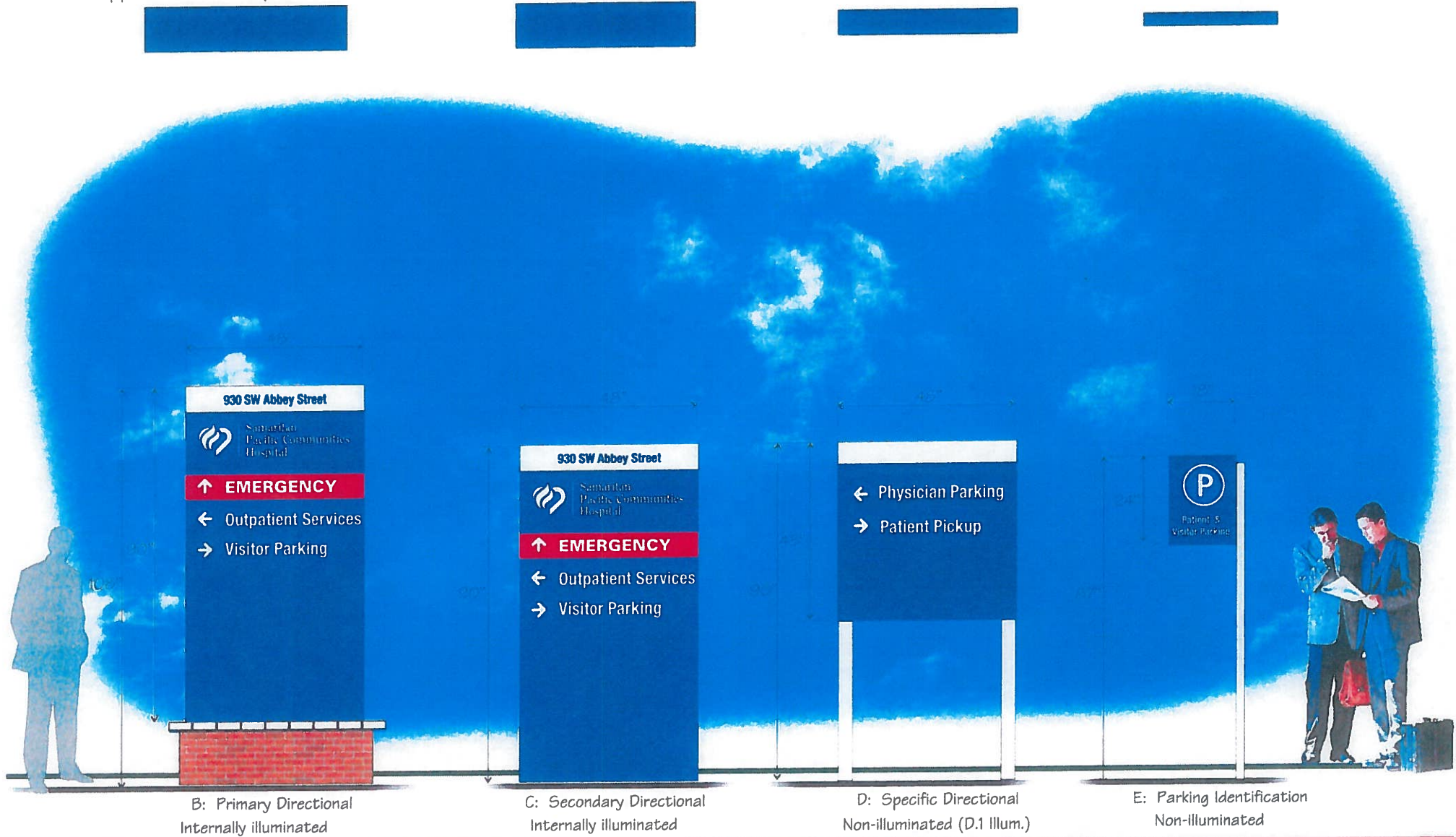
- 12" cap Letters
- 18" x 10'-0" Cabinet



Partial West Elevation

Scale: 1/16" = 1'-0"

Appearance Concept 1

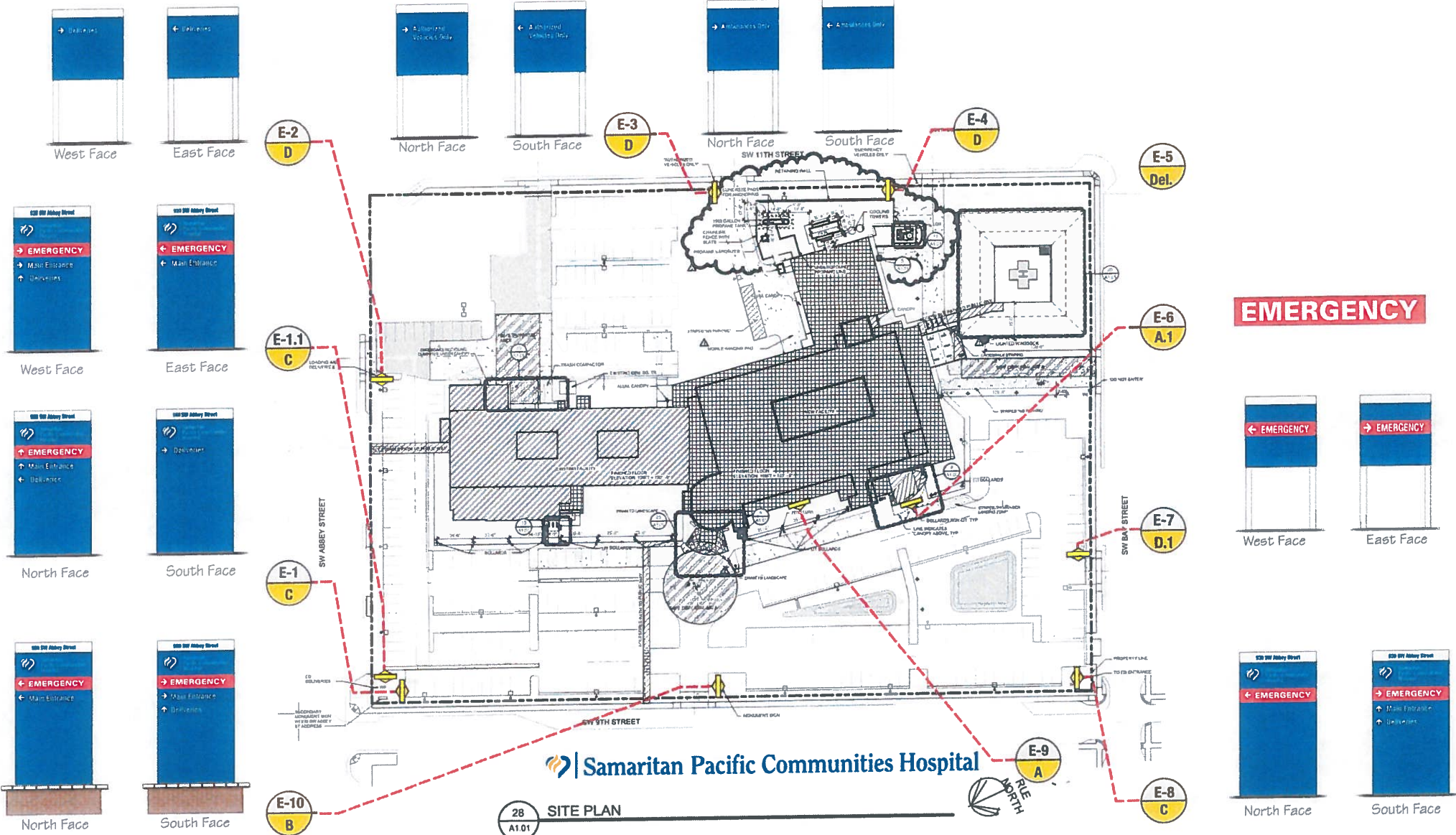


B: Primary Directional
Internally illuminated

C: Secondary Directional
Internally illuminated

D: Specific Directional
Non-illuminated (D.1 Illum.)

E: Parking Identification
Non-illuminated



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

**IN THE MATTER OF PLANNING COMMISSION)
FILE NO. 1-VAR-15, APPLICATION FOR A)
VARIANCE, AS SUBMITTED BY JAYANTI &) **FINAL**
SAROJ PATEL (DENNIS BARTOLDUS,) **ORDER**
AUTHORIZED REPRESENTATIVE))**

ORDER APPROVING A VARIANCE pursuant to Section 10-10.130 (A) of the Newport Municipal Code (NMC) to allow (1) wall signs to be installed on the north and south elevations of the motel that exceed the City's 30-foot maximum sign height limitation; (2) a total of five signs, four wall signs and a freestanding sign, which exceeds the City's limit of three signs, one of which may be other than a wall sign. The combined maximum display area for all of the signs shall not be over the 200 sq. ft. limit for a business. The property is located at 2633 SE Pacific Way (Assessor's Map 11-11-17-AC; Tax Lots 301 & 1100).

WHEREAS:

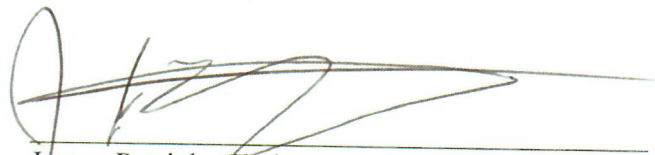
- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a variance, with a public hearing a matter of record of the Planning Commission on December 14, 2015, continued to January 11, 2016; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence from the applicant, and from Community Development Department staff; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, the Newport Planning Commission, upon a motion duly seconded, **APPROVED** the request for the variance.

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 variance as requested by the applicant with the following condition(s):

1. The applicant may have a wall sign on all four building elevations in addition to the freestanding sign as long as the total combined square footage for all signs on the property satisfy the City's 200 square-foot limit of display area for a business.
2. The wall sign on the north elevation of the building shall not exceed 43 feet in height and the wall sign on the south elevation of the building shall not to exceed 38 feet in height.
3. 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.

BASED UPON THE ABOVE, the Planning Commission determines that the request for a variance is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport.

Accepted and approved this 25th day of January, 2016.



James Patrick, Chair
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 1-VAR-15

FINDINGS OF FACT

1. Jayanti and Saroj Patel (Dennis Bartoldus, authorized representative) submitted a request on November 20, 2015, for approval of a Type III variance pursuant to Section 10.10.130 (A) of the Newport Municipal Code (NMC) to allow (1) wall signs to be installed on the north and the south elevations of the motel that exceed the City's 30-foot maximum sign height limitation; (2) a total of five signs, four of which would be wall signs and the fifth a freestanding sign, which exceeds the City's limit of three signs, one of which may be other than a wall sign; and (3) a maximum display area for all signs of 324.75 sq. ft., which exceeds the City's 200 sq. ft. limit of display area for a business. The City sign height limitation is listed in Newport Municipal Code (NMC) Section 10.10.085 (J), the restriction on the maximum number of signs is listed under NMC 10.10.085(C), and the maximum aggregate display area limitation is listed at 10.10.085(G).
2. The property subject to the variance application is located at 2633 SE Pacific Way (Lincoln County Assessor's Map 11-11-17-AC, Tax Lots 301 and 1100). It is approximately 30,492 square feet in size per County assessment records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Commercial.
 - b. Zone Designation: C-2/"Tourist Commercial."
 - c. Surrounding Land Uses: Surrounding uses include an RV park to the north and east, Rogue Brewery to the north, the Oregon Coast Aquarium to the south and east, and residential development to the west opposite US 101.
 - d. Topography: The property is sloped and situated below the elevation of the adjoining highway.
 - e. Existing Structures: A motel.
 - f. Utilities: All are available to the subject property.
 - g. Past Land Use Actions: None known.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on November 14, 2015, to property owners within 200 feet required to receive such notice by the Newport Zoning Ordinance, and to various City departments and other agencies. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., December 14, 2016. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on December 4, 2015. The Community Development Department received no comments from any of the affected parties.

5. The original hearing date was December 14, 2015. The applicant requested the hearing be continued to January 11, 2016, so that they could provide survey information for signs that will exceed the maximum height and building setbacks from property lines. They also wanted the opportunity to submit supplemental narrative in support of the application. The Planning Commission granted the continuance request at its December 14, 2015 meeting.

6. The continued public hearing was held on January 11, 2016. At the hearing, the Planning Commission received the staff report and received oral testimony from the applicant's representative. The minutes of the December 14, 2015, and the January 11, 2016, meetings are hereby incorporated by reference into the findings. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application w/ attachments, received 11/20/15
- Attachment "A-1" – Request for continuance, dated 12/10/15
- Attachment "A-2" – Survey information from Gary Nyhus, received 1/6/16
- Attachment "A-3" – Supplemental narrative and photos, received 1/7/16
- Attachment "B" – Public hearing notice
- Attachment "C" – Zoning map of the area
- Attachment "D" – Schematic drawing of the existing monument sign
- Attachment "E" – Lincoln County Assessor's reports for the property
- Attachment "F" – Municipal Code Chapter 10.10 (Sign Regulations)

7. The application notes that the property owner desires to install wall signs on the north and south elevations of the motel in excess of the City's 30-foot height limitation (NMC 10.10.085(J)), and that they want to add wall signs on the west and east elevations of the structure, which would increase the total number of signs to five, as they also have an existing monument sign. The City's sign code limits the property to a maximum of three signs, one of which may be other than a wall sign (NMC 10.10.085(C)). The display area of the signs is as follows:

Wall Signs

West – 85.375 sq. ft.
East – 97.375 sq. ft.
North – 25 sq. ft.
South – 25 sq. ft.

Monument Sign

Display (per face) – 60 sq. ft.
Reader Board (per face) – 32 sq. ft.

Photo renderings of the wall signs were included with the application (Staff Report Attachment "A"). A schematic drawing of the existing monument sign was included as Staff Report Attachment "D." The City has a 200 sq. ft. maximum aggregate display area limitation for signs (NMC 10.10.085(G)). The total proposed display area is 324.75 sq. ft.

8. Pursuant to Section 10.10.130 (Variance Requirements) of the Newport Municipal Code, the applicant may seek a variance to the numerical provisions of the code. The Planning Commission is the designated approval authority.

9. The applicable criteria for a variance are found in Newport Municipal Code (NMC) Section 10.10.130, which states that: "approval of the request is the minimum necessary to alleviate

special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant."

CONCLUSIONS

1. In order to grant the variance, the Planning Commission must review the application to determine whether it meets the criteria. With regard to those criteria, the following analysis could be made:

Approval of the request is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.

2. The applicant's representative, Dennis Bartoldus, submitted findings addressing the criteria. See Planning Staff Report Attachment "A" and "A-3". With respect to the height variance, Mr. Bartoldus points out that the original motel, the "Ashley Inn" (later the Inn at Yaquina Bay) was designed with signage at the same height that is now proposed for Motel 6. Exterior elevation drawings are included in the application showing this to be the case. Mr. Bartoldus also notes that the motel was constructed at an elevation that is well below US 101 and that without signage at this height the business would be significantly disadvantaged in terms of visibility from US 101 and that there is precedent for height variances of this nature, such as the nearby Holiday Inn Express.

3. At the hearing on January 11, 2016, Mr. Bartoldus advised the Planning Commission that the applicant was modifying the request relative to the proposed wall signs on the east and west elevations. The new proposal is for the signs to be no more than 5' x 5' in size, so that the total for all of the signage stays at or below the 200 square-foot limit.

4. Mr. Bartoldus offered that the request for wall signs on the east and west building elevations is the minimum necessary because of the unique location of the property, with the bridge/US 101 being at a higher elevation and the irregular configuration of the property relative to nearby streets.

5. Based on the application material and the other evidence and testimony in the record, the Commission concluded that a variance to the height limitation should be granted to allow the applicant to install the signage requested on the north and south elevations of the structure. It is clear from the information provided by Mr. Bartoldus that the original motel had signage at the height requested so that the business would be visible to north- and south-bound travelers on US 101. This was accepted by the City when the original motel was constructed, and the Commission finds that denying the current owner that same opportunity would create a practical difficulty or special hardship because they would not be able to advertise their business in as effective a manner as the original motel. US 101 visibility tends to be a major factor for lodging establishments since they are oriented to out-of-town travelers that have either made advance reservations or are passing through the community. Additionally, the Commission finds that such hardship or practical difficulty was

beyond the applicant's control since they did not construct the existing motel and therefore had no influence over site grading or the orientation and design of the building.

6. With respect to the additional 5' x 5' wall signs on the east and the west elevations of the building, the Commission accepts the applicant's argument that the location and configuration of the property creates a special hardship or practical difficulty with respect to advertising that other, similar zoned and developed properties do not face, that such conditions are beyond the control of the applicant, and that the proposed signage is the minimum necessary to alleviate special hardships or practical difficulties.

OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate that the applicant has demonstrated compliance with the criteria for granting a variance, and, therefore, the request is **APPROVED** with the following conditions of approval:

1. The applicant may have a wall sign on all four building elevations in addition to the freestanding sign as long as the total combined square footage for all signs on the property satisfy the City's 200 square-foot limit of display area for a business.
2. The wall sign on the north elevation of the building shall not exceed 43 feet in height and the wall sign on the south elevation of the building shall not to exceed 38 feet in height.
3. 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.



City of Corvallis - Development Services

501 SW Madison Ave, PO Box 1083, Corvallis, OR 97339
541-766-6929 | development.services@corvallisoregon.gov
Schedule an Inspection: www.corvallispermits.com

Sign Permit Number: SGN20-00076

Site Address: 2005 NW CIRCLE BLVD

Applicant:

FORESS SIGN & MFG
ROSS MCCLOW
30255 HWY 34
ALBANY, OR 97321

Contractor:

FORESS SIGN & MANUFACTURING
30255 HWY 34
Albany OR, 97321

Project Description:

ePlans Installation of 1 internally illuminated wall sign.

Sign Information:

New Business.:	Yes	Height-Bottom of Sign:	17.33
Replace Existing Sign:	No	Height-Top of Sign:	23.46
Type of Sign:	Attached (Wall Sign)	Zone:	NC-Major
Historic Building:	No	Property Frontage:	1200
Horizontal Dimension of Sign:	24.25	Proposed Sign Area:	148.5
Vertical Dimension of Sign:	6.125	Illuminated:	Yes

Setback Information:

Vision Clearance Considerations:	No
Distance from Curb:	
Nearest Pole Sign or Monument Sign:	

This permit shall expire if a sign is not installed as approved within 180 days from the date of sign permit approval. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Expiration date: 4/11/2021

Permittee's Signature

October 14, 2020

Date Issued



City of Corvallis - Development Services

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 541-766-6929 | development.services@corvallisoregon.gov
 Schedule an Inspection: www.corvallispermits.com

Permit Number: SGN20-00076

Site Address: 2005 NW CIRCLE BLVD

Condition Type	<h2 style="text-align: center;">Conditions of Approval</h2> <p style="text-align: center; color: red;">To Remain Attached To Reviewed Plans</p>	
LDC SGN	1	<p>0010 LDC SGN Total Sign Allocation</p>
		<p>Based on a Primary Frontage of 1200 feet, the maximum amount of signage allowed on the subject site is 1800 sq. ft.</p> <p>Sign allocation used by existing signage is 654.71 sq ft.</p> <p>Total remaining allocation available for site: 1145.29 sq ft</p> <p>The proposed sign is comprised of 148.5 sq. ft., bringing the total amount of signage provided on the site to 803.21 sq. ft.</p>
	2	<p>0020 LDC SGN Electrical Permit Required</p>
		<p>Illuminated signs require a separate electrical permit.</p>
3	<p>0070 LDC SGN Prohibited Signs</p>	
	<p>Corvallis Land Development Code (LDC) chapter 4.7</p> <p>Section 4.7.50 – Prohibited signs:</p> <ul style="list-style-type: none"> a. Signs that obstruct the Vision Clearance Area, as defined by the City Engineer; b. Signs that obstruct ingress or egress through any door, window, fire escape, standpipe, or like facility required or designated for safety or emergency use; c. Signs that may be confused with public traffic signs or highway identification signs, or appear graphically similar to these types of signs; d. Signs that use words such as STOP, SLOW, CAUTION, LOOK, DANGER, or any other word, phrase, symbol, or character that may mislead or confuse motorists; e. Signs or sign structures determined by the Building Official to constitute a hazard to the public safety or health by reason of poor structural design or construction, inadequate maintenance, lack of repair, or dilapidation; f. Signs located on or above public rights-of-way without written consent of the applicable jurisdiction. This includes, but is not limited to: sandwich boards, posters on utility poles, political signs in parking strips, and signs on sidewalks; g. Signs that flash, blink, fluctuate, or have chaser, scintillating, or speller effects, including search lights.; h. Signs that move or have any moving part. This includes movement by mechanical, electrical, or kinetic means, wind currents, or any other means; i. Signs that inflate, including balloons and blimps; j. Pennants, flags, and banners; k. Roof signs including those projecting more than four ft. above an eave on sloped roofs, or four ft. above the parapets on flat roofs; 	

	I. Signs with visible A-frames, trusses, or guy wires as part of the sign or sign structure.
--	--

500 Pine St. - Suite 3A
Holmes, Pa. 19043

610-522-5555
(fax) 610-461-5566
www.urbanneon.com

HARBOR FREIGHT

NW Circle Blvd.
Corvallis, OR 97330

DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.:	PFD

REVISIONS

--

RED LINE NOTES

--

Customer Approval

SIGNATURE _____
DATE _____

Landlord Approval

SIGNATURE _____
DATE _____

Customers Signature Authorizes
Urban Neon To Produce Design
As Specified.

All Spelling, Punctuation And Colors
Have Been Reviewed And Approved.

All Designs Property Of
Urban Neon.
Unauthorized Use
Not Permitted.

LDTT
000.0

Sheet Size (8.5" X 14")

DRAWING #
12285PFDREV7

PAGE# **2**



Front Elevation - Sign Type (A) (QTY: 1)
Channel Letters - Pan Mounted
Scale: 3/8" = 1' (148.5 SQ FT)

HARBOR FREIGHT

NW Circle Blvd.
Corvallis, OR 97330

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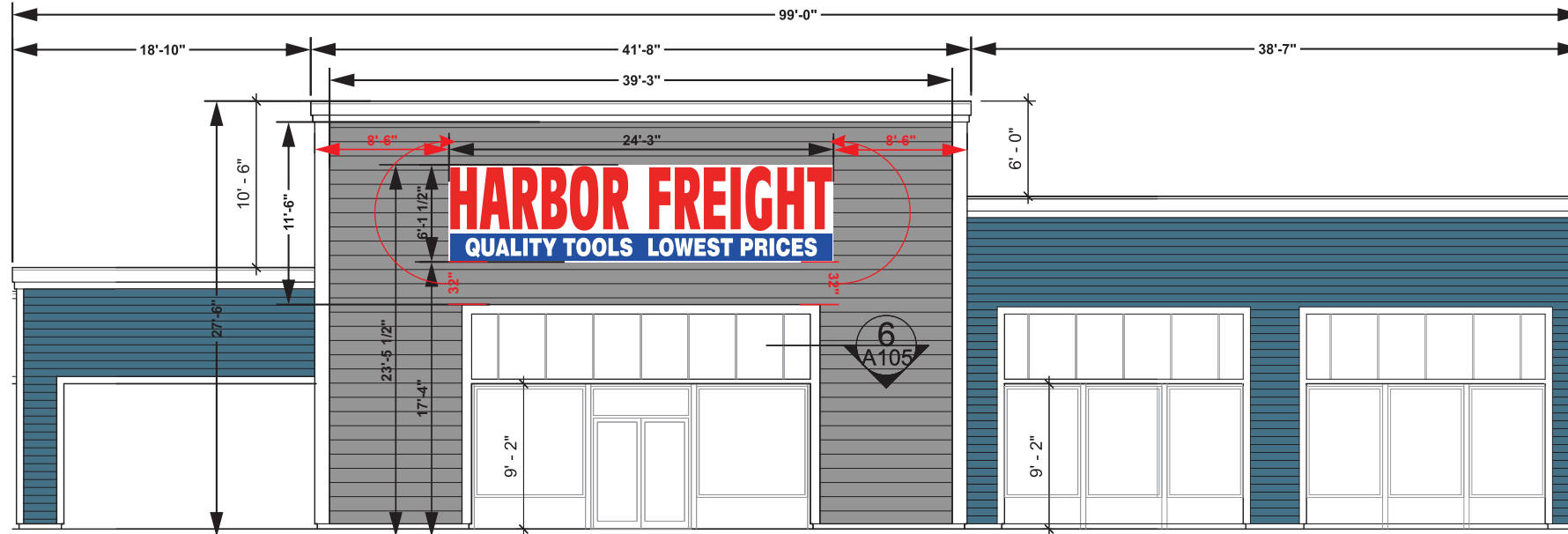
All Designs Property Of
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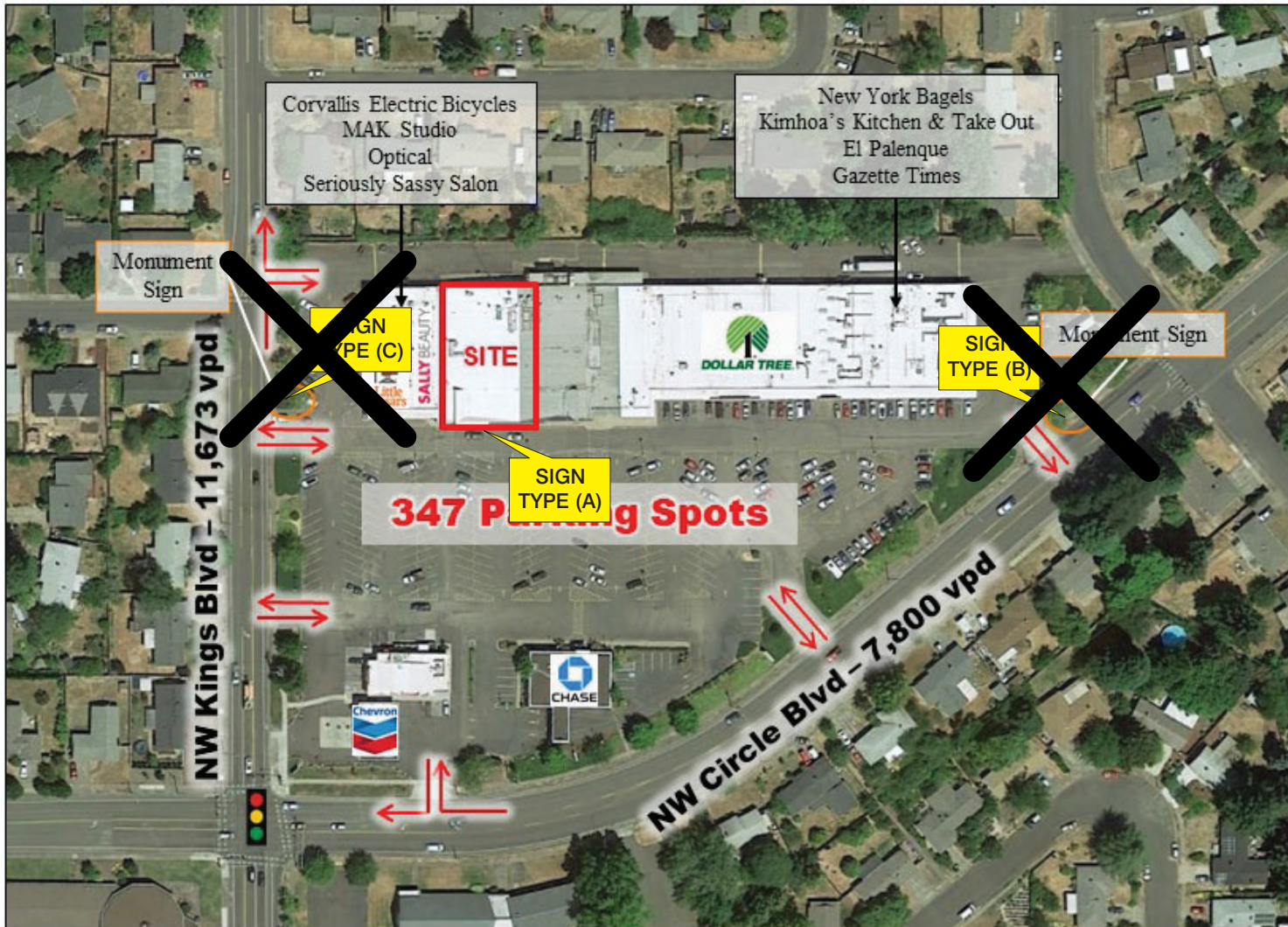
PAGE# **1**



Front Elevation - Sign Type (A) (QTY: 1)
Channel Letters - Pan Mounted
Scale: 3/32" = 1' (148.5 SQ FT)



FRONT ELEVATION - Existing Conditions



DATE:	09/17/20
DRAWN BY:	PFD
SALES:	JM
P.M.:	PFD

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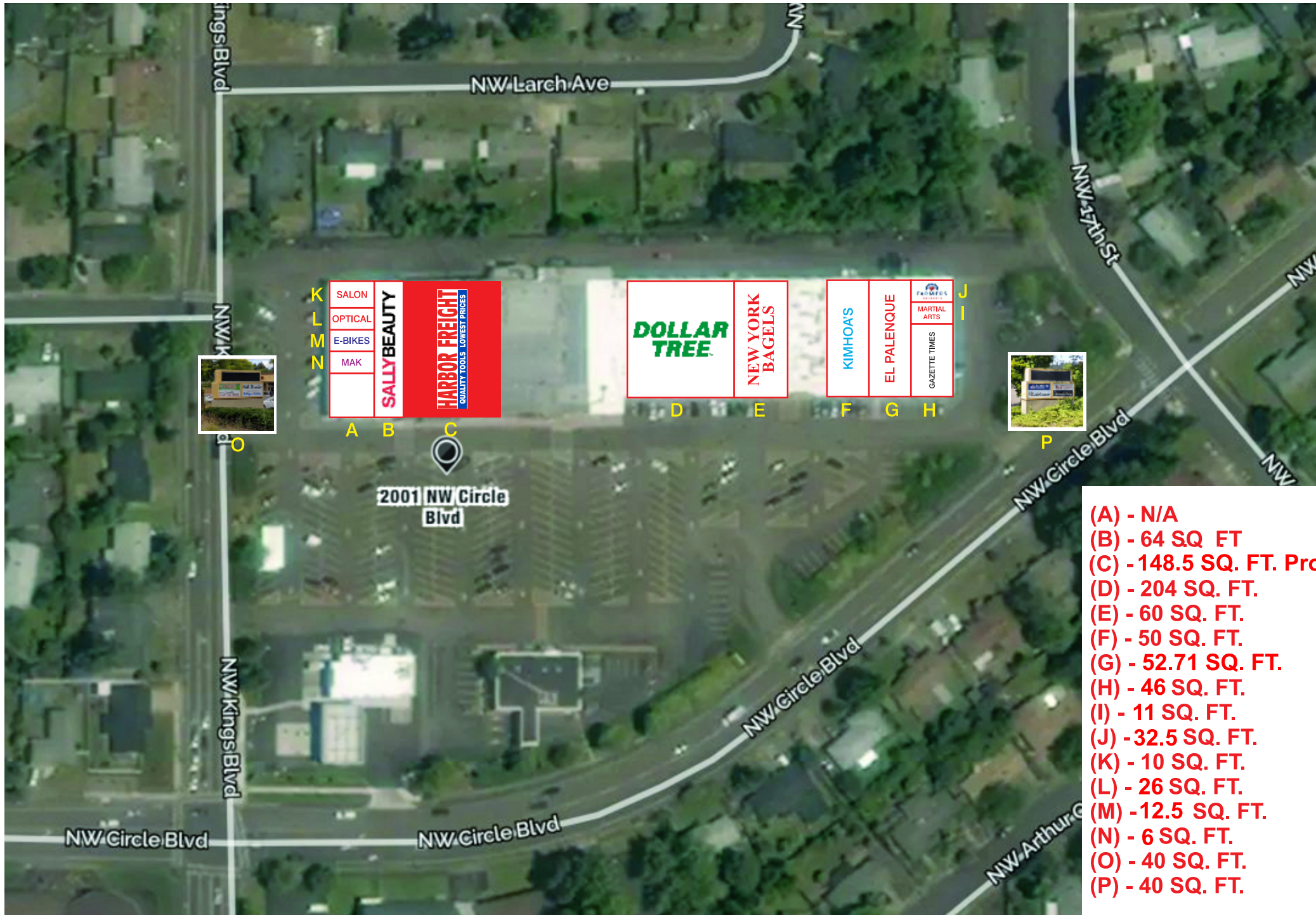
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PAGE# **5**



- (A) - N/A
- (B) - 64 SQ. FT.
- (C) - 148.5 SQ. FT. **Proposed**
- (D) - 204 SQ. FT.
- (E) - 60 SQ. FT.
- (F) - 50 SQ. FT.
- (G) - 52.71 SQ. FT.
- (H) - 46 SQ. FT.
- (I) - 11 SQ. FT.
- (J) - 32.5 SQ. FT.
- (K) - 10 SQ. FT.
- (L) - 26 SQ. FT.
- (M) - 12.5 SQ. FT.
- (N) - 6 SQ. FT.
- (O) - 40 SQ. FT.
- (P) - 40 SQ. FT.

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REVISIONS

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PAGE# **6**

5/16" TEK SCREWS THRU
PAN & ALUMINUM ANGLE
MOUNTING FRAME

1/8" ALUMINUM BREAK FORMED
PAN PTD WHITE

3/8" X 6" STAINLESS
STEEL TOGGLE BOLT.
3' ON CENTER (18 TOTAL)

.040 PRE-FINISHED ALUMINUM
BLACK RETURNS W/ BLACK
JEWELITE TRIMCAP

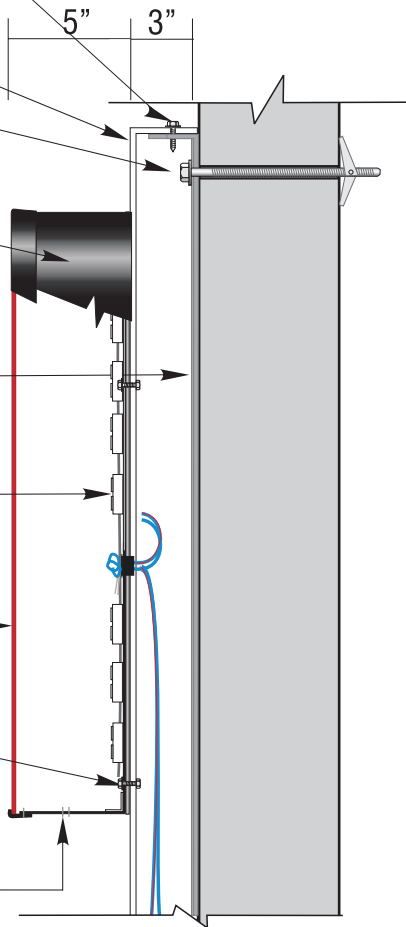
1.5" ALUMINUM ANGLE MOUNTING
FRAMES - MILL FINISH

RED L.E.D.'S
(BITRO)

3/16" RED ACRYLIC
#2793

1/8" DIBOND BACK W/ 1/4"
STAINLESS STEEL BOLTS
THRU DIBOND & PAN

1/4" DIA DRAIN HOLE
(2 PER LTR)



FASCIA SECTION @ CHANNEL LETTER

SCALE: NOT TO SCALE



SIGN COMP NARROW SINGLE
FACE BODY #2021 PAINTED PMS 294C

SIGN COMP BLEED FRAME RETAINER
COVER#2021 PAINTED PMS 294C

SIGNCOMP BLEED RETRO FRAME
#2105

FLEX FACE W/APPLIED
BRISTOL BLUE VINYL
GRAPHICS

LED POWER SUPPLY

1/2" SEALTIGHT CONNECTOR
W/ SEALTIGHT

WHITE BITRO LED

1/8" DIBOND BACK W/ 1/4"
STAINLESS STEEL BOLTS
THRU DIBOND & PAN

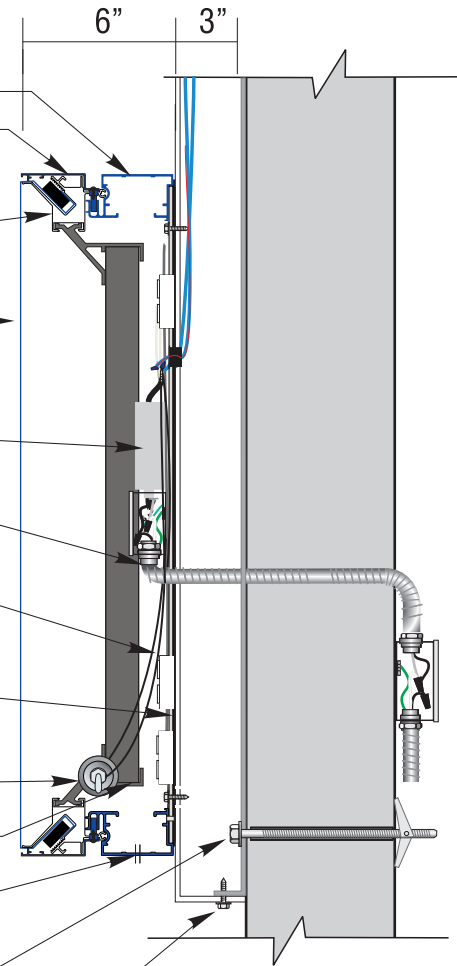
DISCONNECT SWITCH

SIGNCOMP FRAME BRACE#5350

1/4" DRAIN HOLE

3/8" X 6" STAINLESS
STEEL TOGGLE BOLT.
3' ON CENTER (18 TOTAL)

5/16" TEK SCREWS THRU
PAN & ALUMINUM ANGLE
MOUNTING FRAME



FASCIA SECTION @ ILLUM. CABINET

SCALE: NOT TO SCALE



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P.M.:	PFD

REVISIONS

NO.	DESCRIPTION

RED LINE NOTES

Customer Approval

SIGNATURE

DATE

Landlord Approval

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PAGE# **3**

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500 Pine St. – Suite 3A

Holmes, PA 19043

610-522-5555

I, (Please Print) GARY POMA AS AGENT OF THE (Owner/Landlord) give permission to Urban Neon & Foress Signs to apply for sign permits & install Harbor Freight Tools signage on our building / property located at NW Circle Blvd. Corvallis, OR 97330. Please note that no signs shall be installed until (a), signed lease agreement has been reached and (b), a sign permit has been approved and, (c) the new store front has been completed.

The signs will read Harbor Freight w/ a tagline cabinet underneath reading Quality Tools Lowest Prices mounted flush to the wall. Furthermore, I give Foress Signs & Urban Neon permission to replace faces in two monument signs located on the same property. Lastly, permission is granted to Foress Signs & Urban Neon for any other permits, variances, and or work needed to permit and install Harbor Freight signs on the property.

Foress Signs

30255 OR-34

Albany, OR 97321

(541) 928-5858

Signature _____



Date _____

9-24-2020

Tentative Planning Commission Work Program

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



February 26, 2024 Work Session

- Planning Commission FY 24/25 Goal Setting Session
- City Zoning Requirements for Public/Private Schools

February 26, 2024 Regular Session

- Final Order and Findings File #1-CUP-24, Coffee Shop at 146 SW Bay Blvd
- Public Hearing on File #3-Z-23, Removing Regulatory Barriers for Needed Housing

March 11, 2024 Work Session

- Discuss Implementation Steps for SB 1537 “Governors Housing Bill” (Enrolled)
- Finalize Planning Commission FY 24/25 Goals

March 11, 2024 Regular Session

- Approval of Commission’s FY 24/25 Goals

March 25, 2024 Work Session

- Review of Draft Comprehensive Plan Amendments to Implement the Estuary Management Plan

April 8, 2024 Regular Session

- Public Hearing on File #1-VAR-24, Harbor Freight Sign Variance (continued)

April 22, 2024 Regular Session

- Continued Public Hearing for File #1-VAR-24, Harbor Freight Sign Variance

May 13, 2024 Work Session

- Review Updated Comp Plan Amendments & Draft Land Use and Map Amendments to Implement Updated Estuary Management Plan
- Discuss Updated Schedule and Outreach for City Center Revitalization Plan
- Review Draft amendments to Implement SB 1537

May 13, 2024 Regular Session

- Final Order and Findings for File #1-VAR-24, Harbor Freight Sign Variance
- Initiate Legislative Process to Amend the City’s Comprehensive Plan and Zoning Code to Implement the Updated Estuary Management Plan
- Public Hearing on File #2-VAR-24, Setback Variance for Residential Addition at 5259 NW Rocky Way

May 28, 2024 CANCELLED

June 10, 2024 Work Session

- Overview of Comprehensive Plan Refinement Project (Beth Young)
- Status of South Beach Island Annexation Project
- Scope of Work for Water System Master Plan Update

June 10, 2024 Regular Session

- Final Order and Findings for File #2-VAR-24, Setback Variance for Residential Addition at 5259 NW Rocky Way

June 24, 2024 Work Session

- Scope of Work for Updating Newport’s System Development Charge Methodology
- Review Draft Comprehensive Plan Refinement Project Plan Amendments (Beth Young)

June 24, 2024 Regular Session

- Initiate legislative process on Draft Comprehensive Plan Refinement Project Plan Amendments
- Hearing on Comp Plan/Zoning Amendments Implement the Updated Estuary Mgmt Plan
- Placeholder for Public Hearing on Next Phase of Wilder Planned Development



2024 Legislative
Session

Summary of Bills

APRIL 2024

TABLE OF CONTENTS

Introduction	3
Community Development	4
Economic Development	4
Housing & Land Use	5
Energy & Environment.....	8
Finance & Taxation.....	11
Property Taxes	11
General Government.....	13
Public Safety.....	13
Public Contracting.....	14
PERS.....	14
Telecommunications, Broadband, Cybersecurity & Artificial Intelligence.....	15
Transportation.....	16
Water And Wastewater.....	17
Wildfire.....	18

Significant Progress Made on Legislative Priorities in the 2024 Short Session

The 2024 legislative session ended three days prior to the statutory deadline of March 10. The session shifted from recent experience, with no walkouts and bipartisan support for several major issues facing Oregonians.

The LOC's priorities included Measure 110 reforms, several layers of housing policy, gap funding for shelters, and infrastructure funding for new housing development. This detailed end of session report includes the range of issues that were the main focus of the LOC's Intergovernmental Relations team's advocacy efforts. For the short session, the Legislature brought 291 bills, resolutions, and memorials. More than 500 amendments were introduced to modify the original language of the introduced measures, and Governor Kotek has 115 bills to evaluate for signature. At this stage, we are not expecting any vetoes.

Team LOC is Making a Difference!

It's evident that a combination of member-led grassroots advocacy and the excellent work of the LOC's lobby team and partners resulted in substantial progress in 2024.

For example:

- Significant Measure 110 reforms are now confirmed, largely because of a coalition of public safety interests, including the LOC.
- For the first time, the Legislature allocated nearly \$100 million in general fund dollars to local infrastructure needs for new housing starts and \$65 million to keep existing shelters open, thanks to a pre-session member survey that generated 234 projects from 93 cities.
- Finally, recreational immunity was restored after an adverse court decision, which resulted in multiple trail closures.

The LOC lobby team helped stop several poorly constructed property tax measures that would have contributed to an already unfair and outdated property tax system in need of serious reform. We also stopped a pre-session legislative concept that would have preempted the local government franchise fee structure. Other wins included a fix for the use of photo radar and an improved broadband grant program.

What's Next?

In the interim, there is considerable work to do as we prepare for the 2025 session and ensure commitments are met. We must remain focused on what lies ahead because we are not done. The LOC's policy committees started meetings in March and will complete their process in June. State agencies are evaluating how housing infrastructure and shelter funding will be pushed out, and there will be a significant conversation about the transportation package in 2025.

This session's most important take-home message is that the LOC's grassroots advocacy **WORKS!** Persistent engagement and advocacy from cities combined with the efforts of your LOC lobbyists creates leverage and is a recipe for success. During the interim, cities must reinforce their legislative partners, build on local government education, and let their state legislators know how much they appreciate their support.

How to Use this Summary

This summary provides a snapshot of the LOC's work during the 2024 session. There are many other legislative concepts that your lobby team worked on during the session, but are not part of this summary. If there are bills that are not on this list that you have questions about, or if you want a deeper dive into the details of any legislation profiled in this summary, please reach out to the LOC, and we'll connect you with the appropriate lobbyist.

COMMUNITY DEVELOPMENT

Economic Development

PASSED BILLS

[SB 1526](#): Industrial Site Readiness Program Extension

Effective Date: June 6, 2024



SB 1526 extended the sunset of the Oregon Industrial Site Readiness (RSIS) program from July 1, 2023 to December 31, 2029. It also made several technical changes to the program to improve ease of administration, including the exchange of accurate employment and wage data to calculate the reimbursement. The sunset extension was a key priority for the LOC.

SB 1526 is the revenue omnibus bill, a catch-all for revenue-related technical and administrative changes with some new policies. The LOC took no position on any other provisions of the bill besides the sunset extension of the RSIS program. Also included in SB 1526:

- Adding semiconductor-related development to properties eligible to receive property tax abatement under the e-commerce designation of the state's Enterprise Zone program.

A full summary of the changes in the bill can be found [here](#).

FAILED BILLS

[HB 4042](#): Industrial Site Loan Funding



HB 4042 would have capitalized the Industrial Site Loan Fund with \$40 million. It was a redraft of HB 2258 (2023) and a priority of the state's Semiconductor Task Force. The Legislature created the Regionally Significant Industrial Site (RSIS) program, including the loan fund, in 2013 to assist local governments with the cost of making industrial lands ready for development, but has never funded the loan program. HB 4042 also held the sunset extension of the RSIS program, which passed in SB 1526 (2024). The LOC expects to bring forward similar legislation in 2025.

Housing & Land Use

PASSED BILLS

SB 1529: Emergency Weather Resources Update

Effective Date: Upon signing by the governor



This bill makes technical updates to housing stabilization programs. Of note to cities, SB 1529 adds flexibility to an existing program at the Oregon Health Authority (OHA) that directs the agency to contract with cities and other eligible entities, such as non-profits, to distribute air conditioners and air filters in anticipation of an emergency (not just during or after) and clarifies that technical assistance and community outreach are eligible uses of the funds.

SB 1530: Housing Stabilization and Production Funding

Effective Date: Upon signing by the governor



SB 1530 appropriates \$279.6 million in general fund resources across eight agencies to support investments in housing stability, infrastructure development, housing production, climate impacts, and recovery housing, including:

- \$65 million to keep existing shelters open this biennium;
- \$94.9 million in direct grants to cities for site-specific infrastructure investments to support needed housing;
- \$15 million for the Healthy Homes Repair Fund;
- \$3.5 million to provide air conditioners and air filters to eligible recipients; and
- \$18 million for grants at the OHA directed to specified community-based organizations for recovery housing projects.

SB 1537: Governor's Housing Production Bill

Effective Date: June 6, 2024 (see other effective dates below)



SB 1537 is the Governor's Housing Production Package. The bill creates several new programs and new land use requirements, including:

- Establishing a new [Housing Accountability and Production Office \(HAPO\)](#) with \$5 million for local technical assistance grants, *effective January 1, 2025*;
- Clarifying when a developer may opt in to new housing laws that take effect mid-development application; this language is also included in HB 4063 (*effective June 6, 2024*);
- Expanding prevailing party attorney's fees provisions for affordable housing to include local governments, allowing cities to receive compensation for legal expenses when supporting and responding to land use litigation (*effective January 1, 2025*);
- Allocating \$3 million to Business Oregon to help small and rural local governments access infrastructure programs (*effective June 6, 2024*);
- Establishing and funding a new state revolving loan fund with \$75 million for local governments to administer loans for moderate-income housing development (*effective June 30, 2025*);

- Requiring cities to grant up to 10 administrative adjustments to local siting and design standards for housing development (*effective January 1, 2025*);
- Directing cities to process housing development applications requesting partitions and other property boundary changes; site plan review; nonconforming use cases; or adjustments to land use regulations, as limited land use decisions (*effective January 1, 2025*); and
- Providing a one-time urban growth boundary (UGB) expansion tool, and streamlined process for UGB land swaps (*effective June 6, 2024*).

SB 1564: Optional Housing Model Ordinances

Effective Date: Upon signing by the governor



SB 1564 requires the Oregon Land Conservation and Development Commission to adopt model ordinances for cities of different sizes to implement housing and urbanization requirements. The bill directs the Department of Land Conservation and Development (DLCD) to develop models by January 1, 2026 for optional local adoption. The model ordinances will be focused according to city population (cities below 2,500, 2,500 to 25,000, and above 25,000) and must consider geographical and other regional factors. The model ordinances are presumed to be clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size, or a larger population bracket, into their local code, or adopt them by reference. The ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

HB 4015: Battery Facility Siting – See [Energy and Environment section](#)

HB 4026: UGB Expansion Referrals

Effective Date: March 20, 2024



HB 4026 clarifies that local urban growth boundary (UGB) expansion decisions are not eligible to be referred to the ballot by petition and are reviewable exclusively by the Oregon Land Conservation and Development Commission through the established state land use system. The bill received strong bipartisan support and was among the first bills signed by Governor Kotek.

HB 4063: House Housing Omnibus Bill

Effective Date: June 6, 2024



HB 4063 is a largely technical housing policy package that contains several provisions applicable to cities, including:

- Clarifying city and county responsibilities within urban unincorporated lands in the metro region for housing planning and implementation of the Oregon Housing Needs Analysis (OHNA) passed in HB 2001 (2023);
- Clarifying when a developer may opt-in to new housing laws that take effect mid-development application; this language is also included in SB 1537;
- Clarifying that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development;

- Updating the Single-Unit Housing Property Tax Exemption to make local administration more efficient; and
- Updating HB 2001 (2024) to clarify that cities in the metro region will receive a housing needs allocation from the Oregon Department of Administrative Services in the same manner as non-metro cities.

[HB 4134](#): Housing Oregon’s Workforce (HOW)

Effective Date: Upon signing by the governor



HB 4134, known as the Housing Oregon’s Workforce (HOW) bill, provides \$7.1 million in direct grants to four cities for specified infrastructure projects to benefit housing developments that will make at least 30% of the dwelling units affordable to households earning 130% or less of county median income. The original bill proposed \$21.3 million in grants to 11 cities.

FAILED BILLS

[HB 4023B](#): Residential Treatment Facility Supersiting



HB 4023 was introduced as a placeholder bill and amended late in the legislative session. The House Rules Committee amended the bill to include a “supersiting” tool that would prohibit local governments from requiring developers of residential treatment facilities to first obtain a zone change or a conditional use permit, but only in land zoned for commercial use, light industrial use, and publicly owned lands. The LOC submitted [testimony](#) sharing concerns the bill would expose cities to legal confusion and costly litigation for potential violations of the federal Fair Housing Act.

After passing the House, the Senate Rules Committee amended the bill to extend the “supersiting” tool to residential zones. The LOC joined behavioral health providers, counties, chiefs of police, sheriffs, and district attorneys in supporting the amended bill, which passed the Senate on the final day of the session with bipartisan support. The House declined to hear the bill for the concurrence vote required for final passage, and HB 4023B died in the final hour of the session.

[HB 4090](#): Energy Facility Siting – See [Energy and Environment section](#)

[HB 4099A](#): Municipal Development Protection Fund



HB 4099 would have established and appropriated \$10 million for the Municipal Development Protection Fund at Oregon Housing and Community Services (OHCS). The bill directed OHCS to act as a guarantor for any city that agreed to defer system development charge (SDC) collections for housing development for up to 180 days after issuance of certificate of occupancy, or 12 months for publicly supported affordable housing. Should a developer fail to pay their deferred SDC, the program would have reimbursed cities that had agreed to defer SDC collection. The bill also authorized OHCS to assess a 20% fee plus additional interest on a developer who failed to pay the SDC charge. HB 4099A passed the House Housing and Homelessness Committee with unanimous support but did not receive a hearing or funding in the Ways and Means Committee.

HB 4128A: Housing Infrastructure Grants



HB 4128 would have directed nearly \$93 million to Business Oregon for direct allocations to cities for water-related infrastructure projects to support housing development. The bill would have also funded a local infrastructure needs inventory at Business Oregon. While HB 4128A did not pass, the proposed local infrastructure grants informed the allocations that passed in [SB 1530](#).

HB 4155A: Infrastructure Financing Study



This bill would have funded a study of the costs of infrastructure financing in Oregon by considering and evaluating tools the state may use to improve infrastructure and housing costs. HB 4155A passed the House Housing and Homelessness Committee with a unanimous vote but failed to receive a hearing in the Ways and Means Committee.

ENERGY & ENVIRONMENT

PASSED BILLS

SB 1596: Right to Repair

Effective Date: January 1, 2025



SB 1596 requires the “original equipment manufacturers” (OEMs) of electronic equipment to make the necessary documentation, tools, parts, and other resources available to both authorized service providers and independent repair providers on fair and reasonable terms to diagnose, maintain, repair, or update consumer electronic equipment. The bill promotes competition, and equitable access to resources, and ensures that consumers have access to a wide range of repair options, ultimately driving down repair costs that benefit our community members and playing a pivotal role in reducing electronic waste. Additionally, the attorney general will have the authority to investigate and penalize manufacturers that violate the terms of this act and send a clear message that unfair and anti-competitive practices will not be tolerated. Furthermore, the bill helps to promote local independent businesses and drive new economic development opportunities.

Unfortunately, for many communities, especially rural and frontier communities, authorized providers are few and far between. The bill now provides consumers with additional repair options for electronic devices and will reduce improper disposal of electronic waste.

SB 1525: ODOE Technical Fix Bill

Effective Date: March 27, 2024



SB 1525 makes some key technical fixes that modify certain reporting timelines for the Oregon Department of Energy (ODOE), including:

- A natural and working lands net biological carbon sequestration and storage inventory report;
- A study on workforce and training needs to support natural climate solutions on natural and working lands;

- A nonbinding biological carbon sequestration and storage goal for Oregon’s natural and working lands; and
- Submission of Oregon’s energy security plan by September 30, 2024, rather than June 1, 2024.

For Oregon to carry out the requirements for those reports that ensures a robust engagement process, the department needs more time. The original dates were set arbitrarily.

SB 1525 also expands the definitions of “planning costs” and “project cost” in the Community Renewable Energy Grant Program (CREP) to include costs paid or incurred by an applicant’s partner, rather than exclusively by an applicant. The Community Renewable Investment Fund ([HB 2021](#), 2021 session) received \$50 million to provide grants for planning and developing community renewable energy and energy resilience projects (known as the CREP). In addition, instead of distributing funds at completion, 30% of the grant money is released upon entering into a performance agreement, freeing up capacity for smaller communities who cannot start a project without seed money.

Finally, SB 1525 modified the Heat Pump Grants and Rebates Program and expanded an exemption for stand-by generation facilities from obtaining a site certificate from the Energy Facility Siting Council (EFSC) for a standby generation facility.

[SB 1581](#): Reporting Efforts Towards Participating in a Regional Energy Market

Effective Date: January 1, 2024



SB 1581 requires an investor-owned utility that sells more than two million megawatt hours of electricity in a calendar year to submit a report to the Legislature on plans or preparations the utility has taken or is taking toward participating in a regional energy market.

A regional transmission organization (RTO) is an “independent, nonprofit organization that operates and ensures reliability of the bulk power system and optimizes supply and demand for wholesale electricity.” Utilities in Oregon individually perform these functions for their territories and base their rates on a regulated rate of return on investments. Oregon is not part of an RTO or Independent System Operator (ISO).

[HB 4015](#): Defining Battery Energy Storage Systems

Effective Date: January 1, 2025



HB 4015 defines a battery energy storage system (BESS), improves the site certificate process for a BESS, and permits a BESS developer to use the Energy Facility Siting Council (EFSC) to site the BESS. These systems are composed of individual battery cells that are housed together in a module and enclosed in a structure such as a shipping container or a building. Utility- or large-scale BESSs store energy from sources such as wind and solar and provide backup power when those intermittent sources are not available or the cost to generate is high.

Current statute requires a separate site certificate for a BESS, even when paired with a renewable energy project. This extra certificate process increases the cost and would delay project implementation. HB 4015 creates a clear definition of a BESS and allows a separate site certificate to not be required for a BESS when sited in conjunction with another energy facility.

HB 4080: Offshore Wind Development Engagement Policy & Labor Standards

Effective Date: Immediately upon passage



HB 4080 establishes a state policy for the implementation of an Offshore Wind Roadmap. The policy provides for engagement between offshore wind developers and impacted organizations, including local governments, Tribes, ports, and others impacted by the development of offshore wind. Additionally, the legislation aims to promote economic diversification and resilience in offshore wind energy development by ensuring labor and supply chain standards are in line with practices already accepted for renewable energy development projects on land. The bill also requires the Oregon Department of Land Conservation and Development (DLCD) to provide a report on the roadmap to the legislative committees related to marine renewable energy by September 1, 2025.

Having a clear roadmap provides an avenue for the state, local governments, and other impacted groups to engage with all parties, including the federal government. States that have established roadmaps have had more success moving forward with offshore wind projects with less consternation due to the engagement process outlined in their Offshore Wind Roadmaps.

FAILED BILLS

HB 4090: Remove the EFSC Process from Some Energy Siting Review



HB 4090 as amended would have removed the Energy Facility Siting Council (EFSC) certificate process for renewable energy, excluding nuclear, or high-powered transmission line projects exclusively on federal lands. The National Environmental Protection Act (NEPA) process would continue. The LOC secured an amendment that ensured local governments within or adjoining the project area were consulted prior to the NEPA review process. The bill passed the House but died in the Senate.

SB 1559: Modifies State Greenhouse Gas Emission Reduction Goals



SB 1559 would have updated Oregon's greenhouse gas emission reduction goals and changed the term "global warming" to "climate change" in some statutes. The legislation would have updated Oregon's emission reduction practices to be consistent with efforts to limit warming to 1.5 degrees Celsius. Additionally, the state's greenhouse gas emission reduction goals would have been modified to achieve reduction levels of:

- At least 45% below 1990 levels by 2030;
- At least 70% below 1990 levels by 2040; and
- At least 95% below 1990 levels by 2050.

SB 1559 received one public hearing on February 13. Because some groups felt the bill was too controversial for a short session, it was heard only as a courtesy.

FINANCE & TAXATION

Property Taxes

PASSED BILLS

[HB 4031](#): Extends DOR Requirement for Taxpayer Confidentiality to Local Governments

Effective Date: March 27, 2024



HB 4031 extends to local governments the requirements currently placed on the Oregon Department of Revenue to maintain confidentiality of taxpayer information. The requirement covers local government agencies that collect, administer, or manage a local tax imposed upon or measured by gross receipts, gross or net income, wages or net earnings from self-employment, local general sales and use taxes or marijuana taxes. This bill arose out of a situation in which the city of Portland received a public records request for taxpayer information.

[HB 4056](#): Property Foreclosure Surplus

Effective Date: June 6, 2024



HB 4056 temporarily stops counties from taking the deed to a property and requires them to set up a process to determine the surplus from a foreclosure sale. It was brought forth to address the impacts of the recent U.S. Supreme Court Decision, [Tyler v. Hennepin County](#).

Cities with municipal liens on a property are notified and have funds distributed from the sale per [ORS 275.275](#); however there can be debts to the city that are not recorded as liens on the property. Other debtors have requested a process to have their liens satisfied before the surplus is returned if a process is determined, and the LOC has requested that cities have the same opportunity. A workgroup is being formed to work out 2025 legislation.

[HB 4111](#): Farm Equipment Property Tax Exemption

Effective Date: June 6, 2024



HB 4111 exempts real farm equipment and machinery from property taxation. Prior to HB 4111, only farm equipment defined as tangible personal property was exempted. Proponents of the bill have stated there is confusion over whether a piece of farm equipment is “tangible” and depends on arbitrary factors such as if the equipment is fixed or mobile. The LOC stayed neutral on the bill because most of the equipment that is being exempted is outside of cities and the revenue impact is low.

[SB 1545](#): Special Assessment for Wildfire Destroyed Homes

Effective Date: June 6, 2024



SB 1545 allows a county to adopt a special assessment for homes destroyed by the September 2020 wildfires and rebuilt on the same lot. The special assessment is limited to the home value of the 2020-21 real market value of the home, up to the square footage of the destroyed home. The LOC did not take a position because of the limited scope of the special assessment.

FAILED BILLS

HJR 201/HB 4075: Statewide Property Tax for Wildfire



HJR 201 would have referred a constitutional amendment to the voters to create a new statewide property tax to fund public safety. While the bill used the term broadly, it was expected to provide additional funding to rural fire protection districts and the state for wildfire fighting and resilience. The tax would not have impacted compression.

HB 4075 would have only gone into effect if HJR 201 was passed by the voters. It required that 80% of the revenue be distributed to local providers and 20% to the state. It would also have set up a statewide authority to decide how the revenue is spent.

The LOC opposes using the property tax system on state programming as well as the creation of a new statewide authority that would make spending decisions on an already constrained local revenue source. While the tax would have been outside Measure 5 and 50 compression limits, a new statewide tax would have caused voter confusion and limited the ability to pass local bonds and levies.

HB 4141: Lower Delinquent Property Tax Interest Rate



HB 4141 would have decreased the interest rate charged on late property taxes from 1.33% per month to 1.33% per year. When cities receive property tax revenue, the revenue is typically invested in the Local Government Investment Pool until the city needs it to pay for services. When cities receive property tax revenue on time, it serves the long-term health of their budgets because they can invest it and earn interest on the investments.

SB 1544: Special Assessment for Seniors



SB 1544 would have created a special assessment for property owners aged 65 and older. The special assessment would not have had any limitations based on income or value of the home. The state already has an effective program to help seniors with the cost of property taxes, the Oregon Property Tax Deferral for Disabled and Senior Homeowners Program. A broad special assessment for seniors would be redundant and be a massive reduction to the largest and most important source of revenue for local governments.

SJR 202: Senior Property Tax Freeze



SJR 202 would have referred a constitutional amendment to the voters to create a program in which seniors can enroll to have the assessed value of their home frozen. If a homeowner aged 65 and older enrolled, the assessed value of their home would not be able to increase during their time in the program. The bill did not have eligibility requirements based on income or value of the home and no exceptions to increase assessed value with new construction.

HB 4072: State Payment in Lieu of Tax for Public Safety



HB 4072 would have created a payment in lieu of tax program in which the state would pay a public safety fee to cities with state-owned, property tax-exempt land. The program would have created a mechanism for the state to reimburse cities for the cost of providing local public safety services, including police and fire. The bill would have set up a pilot program for the city of Salem to receive the public safety fee and allow other cities with qualifying land to opt-in to the program.

HB 4133: Statewide Fee for Wildfire Funding



HB 4133 was one of several bills designed to provide new funding for the state's wildfire programs. Prior to bill submission, the legislative concept included a new \$10 fee on every property account in the state to fund the Oregon Department of Forestry. The property fee would have impacted compression. The LOC is opposed to this concept, and it did not make it into the introduced bill.

GENERAL GOVERNMENT

Public Safety

PASSED BILLS

HB 4002: Measure 110 Reform

Effective Date: April 1, 2024



HB 4002 recriminalizes the possession and use of small amounts of hard drugs; allows treatment facilities to hold intoxicated persons for 72 instead of 48 hours; addresses an adverse court ruling that made it difficult to prosecute drug dealing; and creates enhanced sentencing for dealing drugs to vulnerable populations. Under the bill, those in possession of small amounts of drugs may be charged with an Unclassified Misdemeanor punishable by up to 180 days in jail. However, the individual may be offered deflection services intended to vector a defendant into treatment and away from the criminal justice system. The 180-day sanction may be imposed by a judge in 30-day increments if the person is revoked by community corrections. HB 4002 also appropriates money to a grant program in the Criminal Justice Commission for counties to create deflection programs. This bill was passed with the strong support of the LOC, the Oregon Association of Chiefs of Police, the Oregon State Sheriffs Association, and the Oregon District Attorneys Association.

HB 4115: Police and Dispatch Collective Bargaining

Effective Date: Upon signing by the governor



HB 4115 allows police and corrections sergeants who do not have the authority to impose economic discipline to form their own collective bargaining units within police agencies. It further allows emergency telecommunications supervisors without economic discipline authority to join existing bargaining units. The bill doesn't allow a police sergeant to be in the same bargaining

unit as the employees they supervise, nor does it impact the “confidential employee” status of sergeants who may be involved in collective bargaining issues and internal affairs investigations in the interest of management. Finally, HB 4115 does not extend past the front-line supervisor employee into command ranks such as lieutenants and commanders. The bill has an emergency clause and applies to contracts entered into after the effective date.

SB 1576: Recreational Immunity

Effective Date: March 27, 2024



SB 1576 is an omnibus bill addressing several areas of civil law. Of interest to cities, the bill temporarily restores recreational immunity after adverse court rulings left property owners vulnerable to claims. The legislation adds “running, walking and cycling” to the definition of recreational purposes until July 1, 2025. SB 1576 is a temporary measure designed to restore recreational immunity until the matter may receive greater deliberation during a long session. The LOC will be a participant in interim conversations with the intention of developing a more durable solution.

Public Contracting

PASSED BILLS

SB 1575: Duty to Defend

Effective Date: January 1, 2025



SB 1575 prohibits contracts with architects, engineers and surveyors that require vendors to indemnify the public body for their work until liability has been established during adjudication. However, the bill does not apply to contracts issued using the “design-build” method of procurement. SB 1575 applies to contracts entered into after January 1, 2025 and the bill sunsets in 2035.

HB 4006: Bond in Lieu of Retainage

Effective Date: March 7, 2024



HB 4006 gives a contractor the option of providing a surety bond instead of having a portion of the payment retained to ensure completion of a project to specifications. The contracting agency is required to accept the bond unless they have found good cause to use retainage and provided that finding in writing to the contractor.

PERS

PASSED BILLS

HB 4045: PERS Benefit Increases

Effective Date: Multiple Dates



HB 4045 increases the Public Employee Retirement System and Oregon Public Service Retirement Program (OPSRP, also known as Tier III) for public safety-related employees. First, the bill allows OPSRP police and fire employees to retire at 55 years of age instead of 60.

Secondly, HB 4045 creates a new “Hazardous Conditions” benefit category for employees of the Oregon State Hospital and emergency telecommunicators. Employees in the new category will be able to retire earlier with benefits similar to police officers and firefighters. The bill is projected to increase system liabilities by \$110 million and increase employer contribution rates for local government employers with emergency telecommunicators by approximately 4.5% of payroll when it takes full effect in 2030.

TELECOMMUNICATIONS, BROADBAND, CYBERSECURITY & ARTIFICIAL INTELLIGENCE

PASSED BILLS

HB 4040: Enhancing the Broadband Grant Process

Effective Date: March 27, 2024



HB 4040 was a placeholder bill that the LOC and other broadband advocates amended to improve the state’s broadband grant process. Prior to the session, the LOC learned that the broadband Grant Application Review Committee (GARC), which was established in 2023 through [HB 3201](#), was struggling to find people to serve.

HB 4040 updates the broadband grant process by replacing the GARC with the Oregon Broadband Advisory Council (OBAC). As an established public body, this will streamline the grant award process, allowing broadband projects to move forward more quickly for communities while continuing to ensure ample oversight and transparency throughout the process.

In addition to the broadband fix, language was inserted to ensure funding previously passed by the Legislature for county fairs would also make the Oregon State Fair and the Portland Expo Center eligible for grants under the program for operations, maintenance and repairs.

HB 4153: Legislative Artificial Intelligence Task Force

Effective Date: March 27, 2024



HB 4153 creates a task force on artificial intelligence (AI) to establish a common understanding of AI terms and definitions, which will serve as a foundation for effective AI regulation and policy. The task force will aim to standardize vocabulary utilized by policymakers and industry professionals, creating shared language through a collaborative process that includes local governments, industry professionals, academics, and others. The LOC worked with sponsors of the bill to ensure that local government expertise and voices would have a seat on the task force.

SB 1571: Standards for Use of Artificial Intelligence in Campaigns

Effective Date: March 27, 2024



SB 1571 aims to protect election integrity and the public’s trust by setting clear standards for the use of artificial intelligence (AI) in the election process. The proliferation of user-friendly AI tools released to the public has created many new opportunities that allow for more efficiency and

creativity across all sectors. AI generated content presents many opportunities for ingenuity as well as potential harms,

SB 1571 will require disclosures on political communications that are the product of AI or synthetic media as defined by the bill. The secretary of state (SOS) will be tasked with investigating complaints and alleged violations of the law using a similar enforcement process established by [ORS 260.537](#). Furthermore, the SOS will have the authority to adopt additional rules necessary for the implementation of this act.

TRANSPORTATION

PASSED BILLS

[HB 4109](#): Transportation Omnibus – Photo Radar Fix

Effective Date: June 11, 2024



In 2023, the LOC sponsored and passed [HB 2095](#), giving all cities the authority to add mobile and fixed photo radar. During the summer of 2023, it was determined that additional clarity was needed to allow the use of fixed photo radar without also requiring an officer present at a location. HB 4109 is an omnibus bill that includes the necessary clarity for the use of fixed photo radar in Section 2. This legislation also cleaned up a portion of photo radar statutes because they are present in three different sections and created confusion.

[HB 4103](#): Trenton’s Law – E-Bicycle Definition

Effective Date: June 11, 2024



HB 4103 updates Oregon statutes to reflect the current technology surrounding electric-assisted bicycles. Oregon joins 48 other states that have modified their statutes to reflect current technology and adopted a three-tier system that reflects different levels of power and speed of e-bikes for purposes of regulation. Class 1 e-bikes only provide assistance when a rider is actively pedaling and stops its motor when the bike reaches 20 miles per hour (mph). Class 2 e-bikes can be propelled without pedaling and top out at 20 mph. Class 3 e-bikes require pedaling, come with a speedometer, and top out at 28 mph. HB 4103 limits access to throttle-assisted e-bikes to riders aged 16 and older while making it illegal for riders younger than 16 without a permit or driver’s license to operate e-bikes, which have capped speeds of 20 mph. The inspiration for HB 4103 resulted from the tragic loss of Trenton Burger, who lost his life while traveling on an e-bike when he was 15.

[SB 1566](#): County Right of Way Fees

Effective Date: March 27, 2024



SB 1566 authorizes counties to require a permit and charge fees when construction activity related to utility operations occurs in a county’s right of way (ROW). The fee structure is limited to a maximum of \$500 for each permit and specifies that the fee may not exceed the county’s cost of issuing the permit. There are several exemptions related to maintenance activity of utilities including water facilities. The LOC, along with the Special Districts Association of Oregon (SDAO), worked to amend the legislation to make it clear that exemptions and fees would not be allowed for core maintenance activity related to stormwater and wastewater facilities. The counties, however, rejected the LOC’s language and there was insufficient

support in the Joint Committee on Transportation to amend the bill. Going forward, cities will need to review all proposed county ordinances to ensure fees or permits do not include maintenance activity related to water, stormwater, or wastewater facility facilities.

FAILED BILLS

[HB 4067](#): Micromobility Study



HB 4067 would have created a task force on electric micromobility and enabled Oregon to convene subject matter experts and communities to evaluate current regulations and safety standards and recommend possible legislation for the 2025 session. The bill did not advance due to the estimated cost of \$200,000 and died in the Joint Ways and Means Committee. The LOC expects this study bill to return in the 2025 session. Given the technological advancements in electric micromobility devices, Oregon needs to update existing regulations to address these devices, including e-driven mono-boards and unicycles with speeds that reach 30 miles per hour.

Weight Mile Legislation



This was a series of legislative concepts addressing Oregon's weight-mile structure and over-collection of road tax from truckers who operate trucks weighing more than 10,000 pounds. It's clear that truckers have been over-charged for their use of roads since 2018. Highway Cost Allocation Studies (HCAS) conducted every two years have shown an overcollection of at least \$193 million for the 2023-2025 cycle. It's likely a solution for weight-mile tax will be part of a transportation package in 2025.

[HB 4165](#): Requires Report on Weight-Mile Tax by ODOT

HB 4165 would have required the Oregon Department of Transportation (ODOT) to evaluate Oregon's cost responsibility system, which determines the rate structure for weight-mile.

[SB 1519](#) & [SB 1543](#): Decreases Weight-Mile Tax

This series of legislative concepts would have established a new rate structure for vehicles exceeding 10,000 pounds. The net effect of these measures would have reduced the revenues available for distribution from the state's highway fund. As a result, the state, counties, and cities would have seen reduced revenues unless there was an increase in gas taxes, license fees, or fees associated with vehicle registration.

WATER AND WASTEWATER

PASSED BILLS

[SB 1567](#): Bistate Water Management

Effective, January 1, 2025



SB 1567 directs the Oregon Water Resources Department (OWRD), in collaboration with the Confederated Tribes of the Umatilla Indian Reservation and the state of Washington, to implement and guide bistate water management in the Walla Walla River Basin following the

Walla Walla Water 2050 Strategic Plan. An advisory committee will include local governments among other key stakeholders.

SB 1561: Monsanto Settlement Agreement

Effective, March 13, 2024



SB 1561 establishes the Environmental Restoration Council and several funds to invest and distribute money from the Monsanto settlement agreement. The funds are available to make distributions to state agencies, non-profit organizations, and Tribal governments for environmental remediation.

FAILED BILLS

HB 4049A: PFAS Study Bill



HB 4049A was the per- and polyfluoroalkyl substances – commonly known as PFAS – study bill. This measure would have appropriated \$740,000 from the state’s general fund for distribution to Oregon State University to study the occurrence and distribution of perfluoroalkyl and polyfluoroalkyl found in biosolids applied to agricultural fields that do not produce crops intended for human consumption. Biosolids are a resource recovered from the wastewater treatment process.

WILDFIRE

FAILED BILLS

SB 1511: Funding Community Wildfire Resilience



SB 1511 would appropriate \$29 million for wildfire resilience programs. The distribution would have been: \$18 million toward community wildfire protection administered by the Oregon State Fire Marshall (OSFM); \$6 million for public health and smoke management to the Oregon Department of Environmental Quality (DEQ); and \$5 million administered by the Oregon Department of Forestry for landscape resilience projects. This legislation was strongly supported by the LOC and the state’s [Wildfire Program’s Advisory Council](#) (WPAC).



Oregon

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TO: Interested Persons, Local Governments and State Agencies

FROM: Alexis Hammer, Legislative and Policy Manager
Aurora Dziadul, Legislative and Policy Analyst
Department of Land Conservation and Development

DATE: April 10, 2024

SUBJECT: **2024 Land Use Legislation Report**



INTRODUCTION

The attached report describes legislation passed in the 2024 short session by the Oregon Legislature related to state land use statutes or the land use programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under "Legislative Information" at:

<https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest and that readers refer to the bills and their legislative history directly for a full picture of legislative intent and law.

This report includes hyperlinks to the Oregon Legislative Information System (OLIS) page for each bill. From those pages, readers can access bill language, measure history, and related testimony.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans¹. Application of these statutory changes to specific plans and codes should be determined by local planning staff and legal counsel.

¹ Oregon Law (ORS 197.646) requires that "a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement." Furthermore, this statute requires that, "when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government's land use decisions."

KEY LEGISLATION

SB 1537– GOVERNOR KOTEK’S HOUSING PRODUCTION FRAMEWORK

Chief Sponsor: Senate President Rob Wagner at the request of Governor Tina Kotek

Appropriation (DLCD): \$10,629,017

Positions (DLCD): 28

FTE (DLCD): 14.46

Sections 1 – 7 | Housing Accountability and Production Office

Summary: Sections 1 – 7 of SB 1537 direct the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to create a joint Housing Accountability and Production Office (HAPO). HAPO will support increased housing production throughout the state by supporting local jurisdictions and developers and enforcing state housing laws. The office is authorized and encouraged to provide a wide range of financial and technical support to local partners, including assisting with permitting and land use decisions, implementation of local procedures and codes, and compliance with housing law. The office will also receive complaints – from housing developers regarding violations of state housing laws related to a specific project, more general complaints from members of the public within that jurisdiction, or from DLCD or DCBS. If the complaint is valid, HAPO will investigate to determine whether there is a potential violation of state housing laws. If the office finds a potential violation, written notice will be provided to the local government specifying the violation, opportunities for funding or technical assistance to remedy the violation will be offered, and the office will cite the authority that will be invoked if the violation continues. After 60 days, if a local government has not addressed the violation, an enforcement action can be taken against the jurisdiction requiring local housing policies be brought into compliance. The Housing Accountability and Production Fund is created through this bill to hold funding for technical support and operations by DLCD, \$5,000,000 is allocated to it for technical assistance and the 3 required reports. DLCD will submit a report to the legislature on the work of HAPO on or before September 15, 2026.

Operative date: July 1, 2025 (Note: HAPO will begin implementation and coordination of the office and grant assistance upon signing of the bill. However, HAP) will not begin taking complaints or pursuing enforcement until the operative date of July 1, 2025.)

Sections 8 – 9 | Opting in to Amended Housing Regulations

Summary: Sections 8 – 9 of SB 1537 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government’s 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

Operative date: 91st day after *sine die*

Sections 10 – 11 | Attorney Fees for Needed Housing Challenges

Summary: Sections 10 – 11 of SB 1537 determine that, for land use decisions within an urban growth boundary (UGB), attorney fees may be awarded to a housing development applicant and local government in the event that a land use appeal is decided in their favor.

Operative date: January 1, 2025

Sections 12 – 16 | Infrastructure Supporting Housing Production

Sections 12 – 16 of SB 1537 require the Oregon Business Development Department (OBDD), also known as Business Oregon, to provide technical support for infrastructure funding to local jurisdictions with \$3,000,000 in funding allocated to the Housing Infrastructure Support Fund. Separately, DLCD will develop key considerations and metrics that can be utilized by the legislature in prioritizing infrastructure investments. This report will be delivered on or before December 31, 2024.

Operative date: 91st day after *sine die* (Note: This is only applicable to the Housing Infrastructure Support Fund.)

Sunset: January 2, 2030 (Note: This is only applicable to the Housing Infrastructure Support Fund.)

Note: Sections 17 – 23 of SB 1537 were removed by amendment and bill sections were not subsequently renamed.

Sections 24 – 36 | Housing Project Revolving Loan Fund

Summary: Sections 24 – 36 of SB 1537 create a Housing Project Revolving Loan Fund within Oregon Housing and Community Services (OHCS) to partner with local governments to provide interest-free loans that jurisdictions can use to subsidize affordable and moderate housing projects. Local jurisdictions may opt into utilizing this program and use the would-be additional property tax revenue to repay the state fund within ten years, unless another timeframe is agreed upon. OHCS must have completed implementation of this fund by June 30, 2025, and is appropriated \$75,000,000 in one-time funding for this purpose.

Operative date: 91st day after *sine die*

Sections 37 – 43 | Housing Land Use Adjustments

Summary: Sections 37 – 43 of SB 1537 require local governments to allow certain adjustments to local code on housing development projects that are within an urban growth boundary. The development must result in net new housing units and demonstrate that the adjustments will help the project reach an outcome of feasibility, affordability, increased housing units, or reduction in sale cost that would not otherwise be tenable without the requested adjustments. These adjustments may not exceed 10 per project, and do not include zoning requirements, affordability, accessibility, natural resource protections and natural hazard mitigations. Local governments may apply to HAPO for an exception to this requirement, if they meet criteria specified in the bill. The Department of Land Conservation and Development will produce a report detailing the use of this provision to the legislature by September 15 of every even-numbered year.

Operative date: January 1, 2025

Sunset: January 2, 2032

Section 44 – 47 | Limited Land Use Decisions

Summary: Sections 44 – 47 of SB 1537 permit local governments to approve applications for replat, property line adjustment, and an extension alteration or expansion of nonconforming land use at the administrative level. These sections remove any local requirement for these application types and other limited land use decisions to undergo a quasi-judicial process with

a public hearing. Local governments may apply to HAPO for a hardship exemption from these requirements.

Operative date: January 1, 2025

Sunset: N/A (Note: Hardship applications sunset January 2, 2032.)

Sections 48 – 60 | One-Time Site Additions to Urban Growth Boundaries

Summary: Sections 48 – 60 of SB 1537 establish an alternative process by which local jurisdictions can amend their urban growth boundaries (UGBs). Cities may apply for a UGB expansion as long as they have 1) not expanded the UGB in the past 20 years and do not have an undeveloped, contiguous tract exceeding 20 net residential acres or 2) can demonstrate that 75% of lands within previous UGB expansion areas have either developed or completed comprehensive planning, including the public facilities and financial planning necessary to support development. The jurisdiction applying must also have a population that is disproportionately cost-burdened compared to the state. The new housing proposed in the UGB expansion must include at least 30% affordable housing - specifically, the housing must be available for rent by households making 80 percent or below area median income (AMI), or available for purchase by households making 130 percent or below AMI. Local jurisdictions will provide a conceptual plan with their amendment proposal to support the petition and demonstrate the feasibility of utilizing this land for affordable housing development and meeting housing needs of their communities. UGB expansions cannot exceed 50 net acres for cities 25,000 and below in population and 100 acres for cities 25,000 and above in population, with a cap of 300 net acres for the entire Metro UGB. Cities may adopt a 15 net acre one-time UGB addition without producing a complete communities plan if they propose to meet the affordable housing production outcomes above. Additionally, SB 1537 provides cities with the option to exchange existing lands within their UGB for certain lands adjacent to the UGB without completing associated Goal 10 and 14 analyses, with the requirement that lands must be similarly sized, zoned for residential use, and added lands are zoned for the same or greater density than those removed.

Operative date: 91st day after *sine die*

Sunset: January 2, 2033

HB 4063 – HOUSING POLICY OMNIBUS

Chief Sponsor: House Committee on Housing and Homelessness

Sections 1 – 6 | Metro Unincorporated Urban Lands

Summary: Sections 1 – 6 of HB 4063 define Metro urban unincorporated lands as being not within a city, zoned for urban development, and within the boundaries of a sanitary district or sanitary authority and water provider, and not zoned with a designation for future urbanization. The county in which this land resides is responsible for planning for needed housing in these communities unless an intergovernmental agreement is reached with another local government to perform these duties. In the 2025 legislative session, DLCD will bring forward a request for funding to provide technical support to counties and local governments that include Metro Unincorporated Urban Lands and are implementing housing production strategies.

Operative date: Upon passage

Sections 7 – 8 | Opting in to Amended Housing Development Regulations

(Note: The following language mirrors that in Sections 8 – 9 of SB 1537.)

Summary: Sections 8 – 9 of HB 4063 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government's 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

Operative date: 91st day after *sine die*

Section 9 | Homebuyer Letter

Summary: Section 9 of HB 4063 removes a provision in ORS 696.805 that required a seller's agent to reject letters from homebuyers. This provision was struck down as unconstitutional by the District Court. This Section removes the language from statute.

Operative date: 91st day after *sine die*

Sections 10 – 13 | Middle Housing Partitions

Summary: Sections 10 -13 of HB 4063 clarify that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development.

Operative date: 91st day after *sine die*

Note: Sections 14 – 24 of HB 4063 were removed by amendment and bill sections were not subsequently renamed.

Sections 25 – 28 | Single-Unit Housing Property Tax Exemption Approval

Summary: Sections 25 – 28 of HB 4063 provide that local jurisdictions may approve or deny single-unit housing property tax exemptions at the administrative level. They are required to submit notice to the county assessor's office upon rendering a decision.

Operative date: 91st day after *sine die*

Sections 29 – 44 | House Bill 2001 (2023) Technical Fixes

Summary: Sections 29 – 44 of HB 4063 clarifies that Metro cities will receive a housing needs allocation from the Department of Administrative Services in the same manner as non-Metro cities.

Operative date: 91st day after *sine die*

SB 1564 – PRESUMED CLEAR AND OBJECTIVE MODEL HOUSING ORDINANCES

Chief Sponsors: Sen. Anderson, Sen. Knopp & Rep. Breese-Iverson

Appropriation (DLCD): \$550,000

Summary: SB 1564 requires the Land Conservation and Development Commission (LCDC) to adopt model ordinances for housing types within urban growth boundaries. These model ordinances will encompass single-family detached housing, middle housing, accessory dwelling units, and multifamily housing. The Department of Land Conservation and

Development (DLCD) will develop three different sets of model ordinances by January 1, 2026 for local adoption, segregated by city population size – below 2,500, 2,500 to 25,000, and above 25,000 – and taking into account geographical and other regional factors. These model ordinances are presumed clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size or a larger population bracket into their local code or adopt them by reference. These ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

Operative date: Upon passage

HB 4026 – PROHIBITION OF URBAN GROWTH BOUNDARY REFERENDUM

Chief Sponsor: House Committee on Rules

Summary: HB 4026 prohibits a local government from referring the decision to expand their urban growth boundary to a ballot vote.

Operative date: January 1, 2023

HB 4015 – BATTERY ENERGY STORAGE SITING

Chief Sponsor: House Committee on Climate, Energy, and Environment

Summary: HB 4015 defines a battery energy storage system (BESS) as an energy storage system that, other than personal and noncommercial uses, collects energy from the electric grid or an energy generation facility, uses rechargeable batteries to retain and store power, and discharges energy when needed. It clarifies that BESS do not require additional permitting when sited adjacent to another energy facility. Additionally, the bill allows a developer or a local government to elect to defer regulatory review to the Energy Facility Siting Council.

Operative date: 91st day after *sine die*

HB 4080 – OFFSHORE WIND ROADMAP

Chief Sponsor: Rep. Grayber & Rep. Gomberg

Appropriation (DLCD): \$998,072

Positions (DLCD): 2

FTE (DLCD): 1.16

Sections 1 – 4 | Offshore Wind Roadmap Development

Summary: Sections 1 – 5 of HB 4080 require the Department of Land Conservation and Development (DLCD) to develop a Roadmap for state policy on offshore wind development. The roadmap must be informed through robust community and tribal nation engagement, and it must support economic opportunity and continuity for the region, protection of natural and cultural resources, and achievement of state energy and climate goals. DLCD will engage with affected Ports, Tribal nations, local governments, and community members in the development of this roadmap. The Department is also required to complete an assessment of enforceable policies for a federal consistency review.

Operative date: Upon passage

Sections 5 – 6 | Legislative Report

Summary: Sections 5 – 6 of HB 4080 require DLCD to submit a report to the legislature detailing how the roadmap development process was completed by September 1, 2025.

Operative date: Upon passage

Sunset: January 2, 2026

Note: Sections 7 – 9 of HB 4080 do not have land use implementation requirements.

CONCLUSION

If you have questions or comments about the report or other legislation, contact Alexis Hammer, Legislative and Policy Manager (alexis.hammer@dlcd.oregon.gov; 971-718-4505) or Aurora Dziadul, Legislative and Policy Analyst (aurora.dziadul@dlcd.oregon.gov; 971-446-8834).

CC:

Land Conservation and Development Commission
League of Oregon Cities
Association of Oregon Counties
Local Officials Advisory Committee
Citizen Involvement Advisory Committee
Oregon Chapter of American Planning Association