

CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

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OFFICE OF COMMUNITY PLANNING & DEVELOPMENT

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NOTICE OF DECISION

January 24, 2006

The Newport Planning Commission, by final order signed January 23, 2006, has approved a request for a Type I Conditional Use Permit as described herein:

FILE NO: # 16-CUP-05.

APPLICANT: Oakdell, LLC (dba The Landing) (Curtis Hofstetler, authorized agent).

REQUEST: The request is for the approval of a conditional use permit to allow for one of the units of The Landing to be converted from a water-related use (former charter office/bait shop/store space) to a condominium motel unit thereby modifying the original conditional use permit (File No. 10-CUP-98) which approved The Landing as a 54-unit condominium/motel by adding the additional condominium motel unit. The subject property is located in a W-2/"Water-Related" zoning district; and pursuant to Newport Zoning Ordinance (NZO) (No. 1308, as amended) Section 2-2-1.040 (18)/"Water-Dependent and Water-Related Uses," a use permitted outright in a C-2 District (such as the proposed motel use) is permitted in the W-2 zone upon issuance of a conditional use permit.

PROPERTY

LOCATION: Tax Map 11-11-09-CB (Supplemental), Tax Lot 70320 (890 SE Bay Blvd. Unit B-2).

CONDITIONS: See Final Order.

THIS DECISION MAY BE APPEALED TO THE NEWPORT CITY COUNCIL WITHIN 15 CALENDAR DAYS (February 7, 2006) OF THE DATE THE FINAL ORDER WAS SIGNED. Contact the Community Development (Planning) Department, Newport City Hall, 169 SW Coast Hwy, Newport, Oregon 97365 (541/574-0629) for information on appeal procedures.

A person may appeal a decision of the Planning Commission to the City Council if the person appeared before the Planning Commission either orally or in writing.

Consistent with NZO Section 2-5-3.025/"Time Limit on a Conditional Use Permit" and Section 2-5-2/"Variances", in the event the proposed use is not established within 18 months after the approval becomes judicially final, this approval shall become void.

Sincerely,

Wanda Haney
Administrative Secretary

Enclosure

cc Oakdell, LLC (dba The Landing) (applicant)
Curtis Hofstetler (Authorized agent)

Business License Department (letter only)
Elwin Hargis (Building Official) (letter only)

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

IN THE MATTER OF PLANNING COMMISSION)	
FILE # 16-CUP-05, APPLICATION FOR A TYPE I CONDITIONAL)	FINAL
USE PERMIT AS SUBMITTED BY OAKDELL, LLC (dba THE)	ORDER
LANDING) (CURTIS HOFSTETLER, AUTHORIZED AGENT))	

ORDER APPROVING A TYPE I CONDITIONAL USE PERMIT to allow for one of the units (Unit B-2) of The Landing at 890 SE Bay Blvd (Lincoln County Assessor's Tax Map 11-11-09-CB (Supplemental), Tax Lot 70320) to be converted from a water-related use (former charter office/bait shop/store space) to a condominium motel unit thereby modifying the original conditional use permit (File No. 10-CUP-98) which approved The Landing as a 54-unit condominium/motel by adding the additional condominium motel unit.

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, with a public hearing a matter of record of the Planning Commission on January 9, 2006, and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence from the applicant, interested persons, and Community Development Department staff, and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.


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

1. Consistent with NZO Section 2-5-3.025/"Time Limit on a Conditional Use Permit", in the event the proposed use is not established or substantial construction has not begun within eighteen (18) months after the approval becomes judicially final, this approval shall become void.

2. Approval of this conditional use permit does not act to modify any of the conditions of approval from File No. 10-CUP-98.

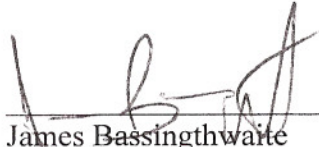
BASED UPON THE ABOVE, the Planning Commission determines that the request for a Type I Conditional Use Permit with the attached conditions of approval is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 23 day of January, 2006.



Darren Romney, Chair
Newport Planning Commission

Attest:



James Bassingthwaite
Community Development Director

EXHIBIT "A"

Case File No. 16-CUP-05

FINDINGS OF FACT

1. Oakdell, LLC (dba The Landing) (Curtis Hofstetler, authorized agent) submitted an application on December 5, 2005, for a Type I Conditional Use Permit approval to allow for one of the units of The Landing to be converted from a water-related use (former charter office/bait shop/store space) to a condominium motel unit thereby modifying the original conditional use permit (File No. 10-CUP-98) which approved The Landing as a 54-unit condominium/motel by adding the additional condominium motel unit. The subject property is located in a W-2/"Water-Related" zoning district; and pursuant to Newport Zoning Ordinance (NZO) (No. 1308, as amended) Section 2-2-1.040 (18)/"Water-Dependent and Water-Related Uses," a use permitted outright in a C-2 District (such as the proposed motel use) is permitted in the W-2 zone upon issuance of a conditional use permit.
2. The subject property is located at 890 SE Bay Blvd. (Lincoln County Assessor's Tax Map 11-11-09-CB (Supplemental), Tax Lot 70320). The Landing property is approximately 65,395 square feet; and Unit B-2, based on the floor plans, is 507 square feet.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Yaquina Bay Shoreland.
 - b. Zone Designation: W-2 / "Water-Related".
 - c. Surrounding Land Uses: The surrounding land uses include a mix of condominium motel (Embarcadero), marina/moorage facilities, Oregon Coast Bank, an RV park, Englund Marine Service, Yaquina Bay Yacht Club, Port of Newport office and properties, residential uses to the north across Bay Blvd., tourist-oriented and seafood processing uses further to the west along Bay Blvd, and the Port International terminal facilities further to the east.
 - d. Topography and Vegetation: Property slopes away from Bay Blvd to the water. Vegetation includes landscaped areas.
 - e. Existing Structures: The property contains an existing condominium motel complex known as The Landing.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Portions of the subject property are within an area designated by the Federal Emergency Management Agency (FEMA) as an "A2" zone (for the purposes of the 100 year flood maps) with a base flood elevation of 9 feet.
 - h. Past Land Use Actions:

File No. 10-CUP-98, which approved The Landing as a 54-unit condominium/motel by adding the additional condominium motel unit.

File No. 7-VAR-98, proposed height variance application for The Landing that was withdrawn by the applicant (Wright & Associates).

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on December 19, 2005, to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., January 9, 2006, or be submitted in person at the hearing. Comments could also be submitted during the course of the public hearing. The notice was also published in the Newport News-Times on December 30, 2005. The affidavit of mailing and proof of publication were entered into the record during the course of the hearing on January 9, 2006. The only comment received prior to the hearing was a "no comment" response from the Newport Public Works Department, dated December 29, 2005.

5. A public hearing was held on January 9, 2006. At the hearing, the Planning Commission received the staff report and heard testimony from Steve Lindell on behalf of the applicant. The minutes of the January 9, 2006, meeting are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Applicant Request
- Attachment "A-1" – Site Plan
- Attachment "A-2" – Floor Plans
- Attachment "A-3" – Building Elevations
- Attachment "B" – Public Hearing Notice and Map
- Attachment "C" – Zoning Map
- Attachment "D" – Final Order for File No. 10-CUP-98

6. The applicable criteria for the conditional use request is found in Section 2-5-3.015(A) of the Newport Zoning Ordinance (No. 1308, as amended):

- (1) The public facilities can adequately accommodate the proposed use.
- (2) The request complies with any special requirements of the underlying or overlay zone.
- (3) The proposed use does not have an adverse impact, or impacts can be ameliorated through conditions.
- (4) The proposed use is consistent with the overall development character of the neighborhood with regard to building size, height, color, material, and form.

In addition to the above criteria, the following standard is applicable to all conditional uses in a W-2 district:

- (5) In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality. **NZO Section 2-2-1.020 (W-2/"Water-related.")(B).** This criterion is addressed under criterion # 2.

CONCLUSIONS

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

1. The Planning Commission finds that public facilities are defined in the Newport Zoning Ordinance as sanitary sewer, water, streets and electricity. The property has frontage on Bay Boulevard, which is an improved city street. The applicants noted in the proposed findings that the proposed use will not require any changes or additions to the existing public facilities. The applicant also noted that the unit has sufficient existing facilities. See Planning Staff Report Attachment "A" (Applicant Request).

2. Based on the above, the Planning Commission concludes that the existing public facilities of sanitary sewer, water, streets, and electricity can adequately accommodate the proposed use.

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

3. NZO Section 2-2-1.020/"Intent of Zoning Districts" requires that in all areas which are considered to be historic, unique, or scenic waterfront communities, proposed conditional uses shall be designed to maintain or enhance the historic, unique, or scenic quality of the area. The Bay Front in which the proposed use will be located is considered a historic and unique waterfront community by the adopted Bay Front Plan, thereby, requiring the preservation and enhancement of its characteristics. The applicant is proposing to convert a portion of an existing building to a different use. The building was reviewed as part of the original conditional use permit in File No. 10-CUP-98 and was approved by the Planning Commission. See Planning Staff Report Attachment "D" (Final Order for File No. 10-CUP-98). Additionally, a condition of approval was adopted in the Final Order for File No. 10-CUP-98 for the purposes of ensuring that signage was reflective of the unique and historic character of the Bay Front.

4. The applicant noted that there are no special requirements related to this request to convert the store to a motel use. The applicant also noted that the proposed use of the unit will not change its character or the character of the surrounding area. See Planning Staff Report Attachment "A" (Applicant Request).

5. Additionally, staff noted that the Bay Front Plan in Goal 1, Policy 2 states that: "The W-2 zone currently allows tourist-related uses as a conditional use. On the water side of Bay Boulevard, if the W-2 zoning is retained, those uses may be allowed only on a finding that the use does not interfere with the functioning of the water dependent uses." While the Goal 1, Policy 2 does not establish a standard for tourist-related uses as Policy 2 says "may" (rather than "shall"), because the proposal is a conversion of use within an existing building, the Commission finds that there will be no interference with water-dependent uses in the area.

6. Based on the above, the Planning Commission concludes that the request will comply with the special requirements of the underlying zone.

Criterion #3. *The proposed use does not have an adverse impact, or impacts can be ameliorated through conditions.*

7. The Planning Commission finds that this criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Newport Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood. The applicant has submitted findings indicating that changing Unit B-2 from a commercial unit to a condominium hotel unit will not change the impact to the area. The applicant further stated that the unit has been vacant for approximately 3 years with the exception of last summer (2005) when the homeowners attempted to utilize the space as a store, which was unsuccessful. The applicant contends that the use of the space as a condominium hotel unit would finally put the space to good use. See Planning Staff Report Attachment "A" (Applicant Request). The change of use from the commercial unit to a motel unit will require a building permit for a change of occupancy.

8. Based on the above, the Planning Commission concludes that the proposed use will not have an adverse impact through the effect of nuisances on the neighborhood.

Criterion #4. *The proposed use is consistent with the overall development character of the neighborhood with regard to building size, height, color, material, and form.*

9. Currently, the City does not have design criteria or guidelines in terms of color, material and form. Therefore, the building size and height are the main concern. The maximum height for a building in the W-2 zone is 35 feet. This is an existing building and has already been reviewed for these standards in the conditional use permit approved in 1999. See Planning Staff Report Attachment "D" (Final Order for File No. 10-CUP-98). The applicant is not proposing any exterior changes to the existing building. The building elevations are included as Planning Staff Report Attachment "A-2" (Building Elevations).

10. The surrounding land uses include a mix of condominium motel (Embarcadero), marina/moorage facilities, Oregon Coast Bank, an RV park, Englund Marine Service, Yaquina Bay Yacht Club, Port of Newport office and properties, residential uses to the north across Bay Blvd., tourist-oriented and seafood processing uses further to the west along Bay Blvd, and the Port International terminal facilities further to the east.

11. The Planning Commission concludes, based on the above, uses in the immediate vicinity, the applicant findings and testimony, site plan, floor plans, and building elevations, that the proposed use is consistent with the overall development character of the neighborhood with regard to building size, height, color, material, and form.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and

conclusions demonstrate compliance with the criteria for a Type I conditional use permit found in Section 2-5-3.015(A) of the Newport Zoning Ordinance (No. 1308, as amended), and, therefore, the requested conditional use permit as described in the applicant findings, site plan, and building elevations as submitted, is hereby approved with the following conditions:

1. Consistent with NZO Section 2-5-3.025/"Time Limit on a Conditional Use Permit", in the event the proposed use is not established or substantial construction has not begun within eighteen (18) months after the approval becomes judicially final, this approval shall become void.
2. Approval of this conditional use permit does not act to modify any of the conditions of approval from File No. 10-CUP-98.