



CITY OF WHEELER, OREGON

755 Nehalem Blvd, P.O. Box 177, Wheeler, OR 97147

Telephone: (503) 368-5767 / Fax: (503) 368-4273

Website: www.ci.wheeler.or.us / Email: cityofwheeler@nehalemtnet.net

APPLICATION 2019-10 CU-DR RESIDENTIAL ABOVE COMMERCIAL USE FINDINGS OF FACT REPORT

REPORT FORMAT:

- Pg. 1 Application Information; Applicable Criteria by Book Title
- Pg. 2 Applicable Criteria by Title (Criteria text are available in the record)
- Pg. 3 Figures by Title (Copies are available in the record).
- Pg. 4 Decision Recommendation
- Pg. 5 - 10 Application Decision Criteria: Wheeler Zoning Ordinance Section 11.050 Design Review; Article 15 Conditional Uses.
- Pg. 11 - 19 Summary Statement: How the Facts in the Record Support the Decision and Meet the Applicable Criteria

APPLICATION INFORMATION

APPLICANT:

Applicants Ken and Lynne Ulbricht for recorded property owner Botts Marsh LLC requests concurrent review of the following applications:

APPLICATION TYPES:

1. 2019-10-CU: A Conditional Use Application for a Wheeler Zoning Ordinance Section 2.030(12) Residential Use (four units) where the ground level is maintained as a Commercial Use. The application depicts as the Commercial Use, a Wheeler Zoning Ordinance Section 2.020 Outright Permitted Use (7) Retail and Fish / Shellfish Sales.
2. 2019-10-DR: A Design Review Application for review of the application under Wheeler Zoning Ordinance Section 11.050 Design Review.

LOCATION:

The location of the request is vacant land described as Assessor Map 2N-10W-2BC Tax Lots 4600, 4700, 4800. The property is part of lots acquired by deed and annexed into the City of Wheeler, Oregon. The property is located within the Wheeler City Limits as the Wheeler, Oregon City Council approved an ORS 222.127 Annexation request filed in writing by the applicant on February 19, 2019. The Comprehensive Plan identifies the development site as located within the Water Related Commercial Zone. Access in part is located on Assessor Map 2N-10W-2BB Tax Lots 400, 500 within the Wheeler City Limits Water Related Industrial Zone.

APPLICABLE CRITERIA BY BOOK TITLE:

Wheeler Comprehensive Plan: Background Report, Statement of Goals and Policies and Zoning Map; Wheeler Zoning Ordinance, Oregon Revised Statutes, Oregon Administrative Rules, and the US Code.



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APPLICABLE CRITERIA BY BOOK AND SECTION TITLE:

(1) A statement of the applicable criteria and standards against which the proposal was tested:

Wheeler Comprehensive Plan Background Report.

Vision Plan (2011); Water Master Plan (2001); Transportation System Plan (2002); Stormwater Master Plan (2005); Salmonberry Trail Master Plan (2017)

Wheeler Comprehensive Plan Statement of Goals and Policies (June 20, 2017):

Goal 1 Citizen Involvement; Goal 2 Land Use Planning; Goal 5 Natural Resources, Open Spaces and Scenic Areas; Goal 6 Air, Land and Water Quality; Goal 7 ... Natural Hazards; Goal 9 Economic Development; Goal 11 Public Facilities and Services; Goal 12 Transportation; Goal 17 Coastal Shorelands.

Wheeler Zoning Ordinance (WZO) (September 28, 2018):

Article 1 Introductory Provisions; Article 2 Water Related Commercial Zone; Article 11 Supplementary Provisions; Section 11.020 Geologic Site Investigations; Section 11.050 Design Review; Section 11.070 Access; Section 11.080 Clear Vision Areas; Section 11.090 Parking Requirements; Section 11.110 Shoreland and Estuarine Development Standards; Article 13 Matters Subject to Review and Approval by the Planning Commission, Public Deliberations and Hearings; Article 14 Variances; Article 15 Conditional Uses.

Wheeler General Ordinances:

Including and not limited to Planning Commission Bylaws

Oregon Revised Statutes: https://www.oregonlegislature.gov/bills_laws/ors/ors227.html

ORS Chapter 192 Records; Public Reports and Meetings.

ORS Chapter 197, Sections 197.015, 197.195 Limited Land Use Decisions, Procedures.

ORS Chapter 222 Annexation, Section 222.127.

ORS Chapter 223 Local Improvements and Works Generally.

ORS Chapter 225 Municipal Utilities.

ORS Chapter 227 City Planning and Zoning.

ORS Chapter 455 Building Code.

ORS Chapter 468 Environmental Quality, Generally.

ORS Chapter 469B Water Quality.

ORS Chapter 549 Drainage and Flood Control Generally

ORS Chapter 672 Professional Engineers, Land Surveyors, Photogrammetrists, Geologists;

ORS Chapter 701 Construction Contractors and Contracts.

Oregon Administrative Rules: <https://secure.sos.state.or.us/oard/ruleSearch.action>

OAR Chapter 141 Oregon Department of State Lands (DSL). Contact: Michael DeBlasi.

OAR Chapter 340 Oregon Department of Environmental Quality (DEQ). Contact: Michael Kennedy.

OAR Chapter 734 Department of Transportation (ODOT) Highway Division. Contact Virginia Williams.

OAR Chapter 737 Department of Transportation (ODOT) Safety Division. Contact: Christopher Malm.

OAR Chapter 741 Department of Transportation (ODOT) Rail Division. Contact: Prescott Mann.

APPLICATION 2019-10-CU-DR FINDINGS OF FACT REPORT. Report Date: September 26, 2019.

Prepared by City Planner Sabrina Pearson for Planning Commission Public Hearing October 3, 2019.

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FIGURES BY TITLE:

(2) A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with applicable criteria or standards:

Application Documentation:

- a. Concurrent Application Form: Conditional Use, Design Review dated August 28, 2019.
- b. Tillamook County Records: County Surveyor Records (C-11 Wheeler, May 18, 1910); (A-62, March 1932); (B-44); (B-46, May 1929); (A-125, 1931); (A-197, Dec. 7, 1933); (B-131, Feb. 1947); (B-1162, July 17, 1984); (B-2819, Dec. 2004); (B-2991, June 24, 2006); (B-3156, Oct. 5, 2007); (B-3962, Feb. 21, 2019); County Clerk Deed Records describing easements on the site; County Assessor Records.
- c. Site Plan, Thomas Johnson, August 22, 2019. Sheet A-1.
- d. Architectural Elevations, Thomas Johnson, August 22, 2019. A-2 Floor Plan. A-4 Elevations.
- e. Structural Engineering Plans, Grummel Engineering, LLC, R. J. Grummel, PE #14725 Nov. 28, 2018.
- f. Structural Calculations, Grummel Engineering, LLC, R. J. Grummel, PE #14725, Nov. 28, 2018.
- g. Site Analysis. August 28, 2019.
- h. Site Boundary Plan. Kurahashi and Associates, LLC.
- i. Site Model. Kurahashi and Associates, LLC.

Documentation:

- a. Geologic Site Investigation Report by Warren Krager, CEG, September 18, 2006 (73 pages).
- b. Wetland Boundary Delineation Map, Gregory Kurahashi, PE, 10,053. Date: March 23, 2007.
- c. DSL Concurrence: Oregon Department of State Lands Wetland Concurrence, October 25, 2007.
- d. Nehalem River Ordinary High-Water Line Report, Kurahashi and Associates, Inc. March 23, 2007.
- e. Transportation Impact Analysis Report (August 29, 2007), Addendum (April 1, 2008), and update letter (October 9, 2018) by CTE Engineers regarding access to US Highway 101.
- f. ODOT Highway Approach Permit Timeline document. (For Change of Use or New).
- g. Oregon Department of Transportation Highway Division Request for Transportation Impact Analysis Report and Review of the Transportation Impact Analysis Report (June 6, 2008).
- h. Oregon Department of State Lands Sale of "historically filled lands", an act DSL determined necessary to allow the full development of the "uplands" including these "new lands". Motion by Treasurer Wheeler, great grandson of the founder of Wheeler Sawmill. Second by Secretary Brown. Motion approved June 11, 2013. Reported in June 13, 2013 minutes. Map attached.
- i. Oregon Department of Transportation Rail Division: "At Grade Rail Crossings Guidance"
- j. Hemlock Street Crossing Orders: Oregon Department of Transportation Rail Division, Public Utility Commissioner, (#85-413 (date)); (Order #87-820 August 10, 1987); (Order # 51283 September 13, 2018);
- k. Rector Street Crossing Orders: Oregon Department of Transportation (ODOT) Rail Division, Public Utility Commissioner, (#892 October 14, 1922); (Order # 50194 June 4, 2003);
- l. Oregon Department of Transportation (ODOT) Rail Division Orders to the Railroad Owner: Southern Pacific Company and the Port of Tillamook Bay Railroad (1986 – present); (Order # 36726 February 5, 1959); (Order # 50469 January 10, 2007);
- m. Surface Transportation Board Decision regarding Rail Line Authority and Joint Notice of Interim Trail Use / Rail Banking Agreement filed by the POTB counsel in accordance with 49 C.F.R. § 1152.29(h).

APPLICATION 2019-10-CU-DR FINDINGS OF FACT REPORT. Report Date: September 26, 2019.

Prepared by City Planner Sabrina Pearson for Planning Commission Public Hearing October 3, 2019.

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RECOMMENDATION FOR DECISION

Following the hearing, the hearing body shall approve, approve with conditions, or deny Application 2019-10-CU Conditional Use and Application 2019-10-DR Design Review. Except for a determination of the applicable criteria, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable criteria set forth for the particular type of decision under consideration as specified by title in the September 26, 2019 findings of fact within the adopted and acknowledged Wheeler Comprehensive Plan: Background Report, Statement of Goals and Policies and Zoning Map; Wheeler Zoning Ordinance, Oregon Revised Statutes, Oregon Administrative Rules, and the US Code.

If the Planning Commission determines that the proposal is not supported by proof that it conforms to the applicable criteria set for the particular type of decision under consideration, these determinations may be reasons for denial of the application or they may be reasons that the applicant may request and the Planning Commission may approve a Continuance of the hearing is continued to a date time and place certain at least seven days from the date of this hearing. The Planning Commission may authorize up to 245 days of continuance and this time when agreed to by the applicant is not counted in the 120 days to provide a decision.

The decision of the hearing body shall be by a written final order signed by the chair or his or her designee. The final order shall incorporate finding of facts and conclusions that include: (1) A statement of the applicable criteria and standards against which the proposal was tested; (2) A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with applicable criteria or standards, and a brief statement identifying how those facts support the decision; (3) In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or when appropriate the facts in the record that support denial.

RECOMMENDED FORMS OF MOTIONS

Application #2019-10-CU Conditional Use: Based on the application, investigation, and testimony received at the public hearing [on October 3, 2019], the planning commission adopts the findings of fact presented in the City Planner staff report dated September 26, 2019 [as amended by the Planning Commission] and [approves, approves with conditions, or denies] Application #2019-10-CU Conditional Use.

Application #2019-10-DR Design Review: Based on the application, investigation, and testimony received at the public hearing [on October 3, 2019], the planning commission adopts the findings of fact presented in the City Planner staff report dated September 26, 2019 [as amended by the Planning Commission] and [approves, approves with conditions, or denies] Application #2019-10-DR Design Review.

The written final order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.

Planning Commission President, Mike Anderson

Date



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APPLICATION #2019 – 10 – CU CONDITIONAL USE

The Planning Commission shall specifically review the Conditional Use to determine if it meets the Conditional Use Criteria specified in Wheeler Zoning Ordinance Article 15 Conditional Use / Activities.

Section 15.010. Intent.

In certain districts, conditional uses or activities may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics or potential disruption of the area in which they are to be located, conditional uses require special considerations, so they may be properly located with respect to the comprehensive plan and to the objectives of this ordinance.

Section 15.020. Authorization.

Uses designated in this ordinance as conditional uses may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission. A conditional use may be authorized if the Planning Commission finds that it is in conformity with the comprehensive plan, that the proposed use of the site and design of the project will be compatible with permitted uses in the area, and the proposed use of the site and design of the project minimizes adverse impacts to the site and adjacent areas. The burden is on the applicant to demonstrate that these requirements can be met. In granting a conditional use, the city may impose the following conditions:

1. Increasing the required lot size or yard dimensions;
2. Reducing the required height and size of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the required off-street parking spaces;
5. Increasing the required street width;
6. Limiting the number, size, location, and lighting of signs;
7. Requiring diking, fencing, screening, landscaping, berms, or other items to protect adjacent or nearby property;
8. Designating sites for open space; and
9. Increasing pipe size or other public facility installment requirements, such as for fire protection, water flow, sewerage, or storm drainage.

Section 15.030. Preexisting Conditional Uses.

In the case of a use existing prior to the effective date of this ordinance and classified in the ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

Section 15.040. Application.

Any person seeking a conditional use permit shall provide the Planning Commission such information as they require to determine whether the permit is authorized by law. At minimum the proposed conditional use description shall include:

1. Legal description of the affected property.
2. Site plan and elevations, drawn to scale, indicating the subject property, the location of all structures, walkways, driveways, landscaped areas, fences, walls, all parking and loading spaces and railroad tracks.



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- 1 3. A sketch, showing the location of existing trees and vegetation proposed to be removed and to be
2 retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and
3 plant materials to be planted on the site.
- 4 4. Site analysis data indicating square footage of the site, building coverage, landscaped areas, and
5 parking.
- 6 5. Other information, as requested by the Planning Commission.

8 Section 15.050. Performance Bond.

9 The Planning Commission may require that the applicant for a conditional use furnish to the town a
10 performance bond, or an acceptable substitute, up to, and not to exceed, the value of the cost of the required
11 improvements in order to assure that the conditions imposed are completed in accordance with the plans and
12 specifications as approved by the Planning Commission and that the standards established in granting the
13 conditional use are observed.

15 Section 15.060. Compliance with Conditions of Approval.

16 Compliance with conditions established for a conditional use and adherence to the submitted plans, as
17 approved, is required. Any departure from these conditions of approval and approved plans constitutes a
18 violation of this ordinance.

20 Section 15.070. Time Limit for Conditional Uses.

21 Authorization of a conditional use shall be void after one year or such lesser time as the authorization may
22 specify unless substantial construction has taken place. However, when requested, the Planning Commission
23 may extend authorization for an additional period not to exceed six months, provided such a request is
24 submitted to the Planning Commission at least 10 days prior to the expiration of the permit.

26 Section 15.080. Limitations on Refiling of Application.

27 Applications for which a substantially similar application has been denied will be heard by the Planning
28 Commission only after a period of six months has elapsed from date of the earlier decision.

30 Section 15.090. Basic Conditional Use Standards.

31 Before a conditional use is approved, findings will be made that the use will comply with the following
32 standards:

- 33 1. A need exists for the use at the proposed location.
- 34 2. The use will not overburden the following public facilities and services: water, sewer, storm drainage,
35 electrical services, fire protection, and schools.
- 36 3. The site layout shall provide an adequate amount of space for yards, buildings, drives, parking, loading
37 and unloading areas, storage facilities, utilities, or other facilities which are required by city ordinances
38 or desired by the applicant.
- 39 4. The topography, soils, and other physical characteristics of the site are appropriate for the use.
- 40 5. The use will not create traffic congestion on nearby streets.
- 41 6. The proposed use will be compatible with the general character of the area due to the architectural
42 style, building materials and colors, landscaping, fencing, and/or other building or site characteristics.



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APPLICATION #2019 -10- DR DESIGN REVIEW

The Planning Commission shall specifically review the Design Review Application to determine if it meets the Design Review Criteria specified in Wheeler Zoning Ordinance Section 11.050 Design Review.

1. All commercial and industrial development in any zone, any multifamily dwelling in any zone, is subject to design review by the Planning Commission.
2. When design review is required, no permit will be issued until site plans have been reviewed and approved under Comprehensive Plan Policies and Ordinance Provisions by the Planning Commission.

Findings:

This reference to “Comprehensive Plan Policies” draws the decision body to compare the application to the Comprehensive Plan Policies and Ordinance Provisions. A comparison of the application to Comprehensive Plan Policies

3. The site plan shall be drawn to a measurable scale and shall show the pre-construction or excavation condition of the site, and indicate any trees over 6 inches diameter at 4 feet above ground level, streams, lowlands, rock outcroppings, slopes, or other natural features. Building elevations shall indicate the type of materials to be used for roofing, siding, or other treatment. A plot plan with a complete landscape design shall indicate all retained mature vegetation, proposed plantings and ground covers, as well as other landscaping materials to be used, the extent and design of paved areas, culverts, and other proposed design features and functions.
4. The following guidelines shall be used by the Planning Commission in the evaluation of proposals:
 - a. Site Design.
 - (1) Where existing natural or topographic features are present, they should be used to enhance the development. For example, incorporate small streams in the landscape design rather than placing them in a culvert and filling.
 - (2) Existing trees should be left standing except where necessary for building placement, sun exposure, safety or other valid purpose. Landscaped vegetation buffers shall be provided along major streets or highways, or to separate adjacent uses. The use of native plants is encouraged.
 - (3) Graded areas shall be replanted as soon as possible after construction to prevent erosion. In areas where planting will not thrive, other materials such as wood fences, decorative rock, stone walls, and paving of brick or stone shall be used.
 - (4) Exterior lighting shall be restrained in design, and shielded so as not to cast glare on adjacent private or public property or the night sky.



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- (5) Storage or mechanical equipment shall be screened from view. Trash enclosures and screening shall be carefully located and treated to integrate with the appearance of the site/building design. Screen all outdoor storage. Roof top equipment shall be screened a minimum of 1 foot higher than the highest point on the equipment and shall be setback a minimum of 10 feet from the building edge.
- (6) Primary building entrances shall open directly to the outside and shall have walkways connecting them to the street sidewalk. Create storefronts and entries that are visible and easily accessible from the street. Either orient the primary entrance to the building along a street facing property line or create an ADA accessible courtyard / plaza incorporating pedestrian amenities including street trees, outdoor seating and decorative pavers. Ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, provide for connections between adjacent sites, where feasible.
- (7) Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located in areas accessible to the public are encouraged and may be calculated as part of the landscaping requirement. Benches in public areas on private property, adjacent to public right of way shall comply with design review standards for architectural style.
- (8) A landscaping plan shall be submitted which shows existing and proposed vegetation, trees, landscaping materials, a timeline for installation and maintenance, and other features in order to permit the Planning Commission to review the plan. Landscaping shall be provided along project site boundaries where it does not interfere with access and clear vision. Landscaping is intended to soften the effects of built and paved areas. It also helps reduce storm water runoff by providing a surface into which storm water can percolate.
- (9) Parking lots shall be divided into groups of no more than 8 spaces with landscaping and walkways dividing the groups. A walkway or sidewalk shall be provided to separate the parking from public streets and adjacent property. Parking shall be designed to be as unobtrusive as possible, through site location and landscaping.
- (10) Uses shall provide a hard-surfaced, well-marked and lighted pedestrian access system consistent with the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines.

b. Building Design.

- (1) The height and scale of the buildings should be compatible with the site and adjoining buildings. Use of materials should promote harmony with the surrounding structures and site. The materials shall be chosen and constructed to be compatible with the natural elements and



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1 applicable city ordinances.
2

3 (2) Architectural style should not be restricted Evaluation of a project should be based on quality
4 of design and the relationship to its surroundings. However, the use of styles characteristic of
5 Wheeler and the coastal area are preferred. These include the use of natural wood siding
6 such as cedar shingles. The City encourages the use of pitched roofs, large overhangs, wood
7 fences and wood signs. Colors should be earth tones harmonious with the structure, with
8 bright or brilliant colors used only for accent.
9

10 (3) Monotony of design in single or multiple building projects shall be avoided. Variety of detail,
11 form, and site design shall be used to provide visual interest. In a Planned Development, no
12 more than 25% of all buildings in the development shall replicate the same roofline or
13 footprint.
14

15 (4) Restaurants or facilities with late entertainment shall not have an adverse noise impact on
16 adjacent residential uses and shall employ appropriate sound-proofing techniques.
17

18 (5) The impact that structures will have on views from adjacent or other areas will be taken
19 into account.
20

21 (6) The property owner shall establish one street facing entrance or store front with access
22 acceptable to the City.
23

24 (7) The street facing entrance or store front shall provide windows or window displays a
25 minimum of 4 feet in height along the ground floor street-facing frontage for a minimum of
26 50 percent of the horizontal length of the building. Glass doors may be credited toward the
27 50 percent requirement. This section shall not apply to multifamily dwellings.
28

29 (8) Architectural features or landscaping shall be provided for at least 30 percent of the wall
30 length on each street facing elevation.
31

32 (9) Multi-story commercial, mixed-use or multifamily dwellings shall have ground floors defined
33 and separated from upper stories by architectural features that visually identify the
34 transition from ground floor to upper story.
35

36 (10) Provide recessed shielded lighting on street-facing elevations. Provide articulated facades
37 for every 40 feet of building length. Articulated facades shall contain at least one of the
38 following features: building offsets, projections, changes in elevation or horizontal direction,
39 or a distinct pattern of divisions in surface materials. Large expanses of blank walls shall
40 only be located in areas that are not visible to the public.
41

42 (11) New commercial or mixed-use residential / commercial structures shall be encouraged to
43 provide weather protection for pedestrians along street facing elevations.



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5. Performance Bond.

The Planning Commission may require that the property owner furnish to the City a performance bond, cash or surety for the value of the cost of improvements that will be dedicated for public use in order to assure that the improvements are completed within the timeframe specified. These improvements may include open space, and infrastructure such as sidewalks, streets, water, sewer, and stormwater drainage.

6. Compliance with Approved Plans.

Compliance with conditions of approval and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance.

7. Time Limit for Design Review.

Approval of an application for design review shall be void after one year or such lesser time as the authorization may specify unless construction has taken place. The Planning Commission may extend authorization for an additional period not to exceed six months provided a written request is submitted to the City Manager at least 10 days prior to the expiration of the permit. The Planning Commission shall review the request at the next available Planning Commission meeting.

8. Limitations on Refiling of Application.

Applications for which a substantially similar application has been denied will be heard by the Planning Commission only after a period of six months has elapsed from date of the earlier decision.



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SUMMARY STATEMENT:

A brief statement identifying how the facts and evidence meet the criteria and support the decision.

- a. Concurrent Application Form: Conditional Use Application and Design Review Application dated August 28, 2019.

According to the Wheeler Comprehensive Plan Zoning Map, the proposed development depicted in the request is located within *Water Related Commercial Zone (WRC)*. For transparency, this staff report identifies that an incidental amount of access to the proposed development depicted in the request appears to be part located within the *Water Related Industrial Zone (IND)*.

The application requests concurrent review for a Conditional Use Application for an Article 2 Water Related Commercial Zone (WRC) Section 2.030 Conditional Use (12) "Residential use in conjunction with a permitted or conditional use where the street level is maintained as a commercial use."

The application requests concurrent review for a Design Review Application as required by Section 2.040 Development Standards (6) "All commercial developments shall be subject to design review, Section 11.050." and Section 11.050 Design Review (1) "All commercial and industrial development in any zone and any multifamily dwelling in any zone, [are] subject to design review to the Planning Commission."

Section 11.050 Design Review (6) Compliance with Approved Plans states that:

"Compliance with conditions of approval and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance."

Section 11.050 Design Review (7) Time Limit for Design Review states that:

"Approval of an application for design review shall be void after one year or such lesser time as the authorization may specify unless construction has taken place. The Planning Commission may extend authorization for an additional period not to exceed six months provided a written request is submitted to the City Manager at least 10 days prior to the expiration of the permit. The Planning Commission shall review the request at the next available Planning Commission Meeting."

Section 11.050 Design Review (8) Limitations on Refiling of Application states that:

"Applications for which a substantially similar application has been denied will be heard by the Planning Commission only after a period of six months has elapsed from the date of the earlier decision."

- b. Tillamook County Records: County Surveyor Records (C-11 Wheeler, May 18, 1910); (A-62, March 1932); (B-44); (B-46, May 1929); (A-125, 1931); (A-197, Dec. 7, 1933); (B-131, Feb. 1947); (B-1162, July 17, 1984); (B-2819, Dec. 2004); (B-2991, June 24, 2006); (B-3156, Oct. 5, 2007); (B-3962, Feb. 21, 2019); County Clerk Deed Records describing easements on the site; County Assessor Records including map 2N 10W 2BC Tax Lot 4500, 4600, and 4700 and 2N 10W 2BB Tax Lot 400 and 500.



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The records provided with the application are provided to address the Applicable Criteria specified in: Wheeler Zoning Ordinance Section 11.030 Survey Required, and Article 15 Conditional Uses, Section 15.040 (1).

Section 11.030. Survey Required, requires that:

“Prior to the issuance of any building permit for new construction of a new dwelling or placement of a manufactured home, or any construction which expands the dimensions of a structure and may encroach into setbacks or other building limitations, the City Recorder will require a boundary survey of the property. All new construction and substantial renovation in the 100-year flood plain shall require a Certificate of Elevation by a registered surveyor.”

Article 15 Conditional Uses Section 15.040 Application requires that “... At minimum the proposed conditional use description shall include: (1) Legal description of the affected property.”

- c. Site Plan Thomas Johnson, August 22, 2019. Sheet A-1.
 - i. Site Analysis. August 28, 2019. Applicant.
 - ii. Site Boundary Plan. Kurahashi and Associates, LLC.
 - iii. Site Model. Kurahashi and Associates, LLC.

Findings:

The site plan identified as Sheet A-1 and dated August 22, 2019 prepared by Thomas Johnson, AIA, with “Site Analysis” calculations, is based on the data provided in the Site Boundary Plan and Site Model provided by Kurahashi and Associated, LLC.

The site analysis identifies the following calculations of land:

Site Area:	100%	111,078 square feet
Parking Areas:	15.69%	17,424 square feet
Retail / Residential Building:	6.22%	6,907 square feet
Hotel:	14.05%	15,604 square feet
Roads:	9.24%	10,260 square feet
Landscaping:	54.81%	60,833 square feet
Off-Street Parking:	75 spaces	Space size is not identified

These facts are provided to address the Applicable Criteria specified in:

Wheeler Zoning Ordinance, including and not limited to: Section 1.070 Definitions (2) Access; Article 2 Water Related Commercial Zone Section 2.040 Development Standards (2), (5), Section 11.050 Design Review (2), (3), and (4)(a) Site Design, Section 11.070 Access, Section 11.080 Clear Vision Areas, Section 11.090 Off-Street Parking Requirements, Section 11.111 General Shoreland Development Standards (1) Setback, (3) Waterfront Access, (4) Signs, (6) Utilities, (7) Parking, (8) Architectural Design, and (9) Erosion Control, Article 15 Conditional Uses Section 15.040 Application (2), (3), and Section 15.090 Basic Conditional Use Standards (3), (6).



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1 [Wheeler Comprehensive Plan Background Report Vision Plan \(2011\) Priorities](#), including and not
2 limited to: those with specific provisions that apply to this development: (1) Protect the Natural Beauty,
3 (2) Preserve the Small-Town Atmosphere, and (5) Support a Vital Economy.
4

5 [Wheeler Comprehensive Plan Background Report Stormwater Master Plan \(2005\)](#), including and not
6 limited to: Section 2.2 Climate; Section 2.3 Landscape Features, Section 2.4 Soil Characteristics,
7 Section 2.5 Natural Vegetation, and Section 3.3.2 Future Development.
8

9 [Wheeler Comprehensive Plan Statement of Goals and Policies \(2017\)](#):

10 Goal 1 Citizen Involvement, Policy 6

11 Goal 2 Land Use Planning, Policy 1

12 Goal 5 Natural Resources, Scenic and Historic Areas and Open Spaces Policies 1, 3, 6

13 Goal 6 Air, Water, and Land Resources Quality Policies 1, 2

14 Goal 7 Areas Subject to Natural Hazards, Policies 5, 6, 7

15 Goal 9 Economic Development, Policies 1, 2, 3, 4, 5, 11, 12, 13

16 Goal 10 Housing, Policies 6, 7

17 Goal 11 Public Facilities and Services, Policies 1, 2, 3, 4, 5, 6, 7, 8, 12

18 Goal 12 Transportation, Policies 1, 2, 4, 5, 8, 11, 15

19 Goal 17 Coastal Shorelands, Policies 1, 2, 3, 4, 6, 7, 9, 10, 12
20

21 [Summary Statement](#):

22 The Planning Commission shall determine that site design meets the applicable criteria. Some of the
23 applicable criteria are prescriptive, and some of the applicable criteria are discretionary and cannot be
24 addressed in these findings of fact. The Planning Commission must determine whether prescriptive
25 requirements are met and whether they have enough information to address discretionary criteria.
26

27 [Site Plan information requirements](#) are specified in Section 11.050(3), Section 15.040 (2), (3), (4).
28

29 [Conclusions](#):

30 1. Consistent with [Section 11.050 Design Review \(3\)](#) the application provides for: "*The site plan shall*
31 *be drawn to a measurable scale and shall show the pre-construction or excavation condition of the*
32 *site, and indicate any trees over 6 inches diameter at 4 feet above ground level, streams, lowlands,*
33 *rock outcroppings, slopes, or other natural features... A plot plan with a complete landscape design*
34 *shall indicate all retained mature vegetation, proposed plantings and ground covers, as well as other*
35 *landscaping materials to be used, the extent and design of paved areas, culverts, and other proposed*
36 *design features and functions.*"

37 2. Consistent with [Section 15.040 Application](#) the application provides for: "*At minimum the proposed*
38 *conditional use description shall include ... (2) Site plan and elevations, drawn to scale, indicating the*
39 *subject property, the location of all structures, walkways, driveways, landscaped areas, fences, walls,*
40 *all parking and loading spaces and railroad tracks; (3) A sketch, showing the location of existing trees*
41 *and vegetation proposed to be removed and to be retained on the site, the location and design of*
42 *landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site; (4) Site*
43 *analysis data indicating square footage of the site, building coverage, landscaped areas, and parking.*"



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1
2 Prescriptive site design requirements are specified in Wheeler Zoning Ordinance Section 11.050
3 Design Review (a) Site Design (9, 10); Section 11.070 Access; Section 11.080 Clear Vision Areas;
4 Section 11.090 Off-Street Parking Requirements (1-13); Section 11.111 General Shoreland
5 Development Standards (1) Setback; (3) Waterfront Access; (4) Signs; (6) Utilities; (7) Parking; (9)
6 Erosion Control. Wheeler Comprehensive Plan Goal 1 Citizen Involvement, Policy 6; Goal 2 Land Use
7 Planning, Policy 1; Goal 5 Natural Resources, Scenic and Historic Areas and Open Spaces Policies,
8 Policy 3; Goal 7 Natural Hazards, Policies 5, 6, 7; Goal 9 Economic Development, Policy 3; Goal 10
9 Housing, Policy 7; Goal 11 Public Facilities and Services, Policies 1, 2, 3, 4, 5, 7, 8, 12; Goal 12
10 Transportation, Policies 8, 11, 15.

11 Conclusions:

- 13 1. Consistent with Section 11.050 Design Review (a) (9) Parking lots shall be divided into groups of
14 no more than 8 spaces with landscaping and walkways dividing the groups. A walkway or sidewalk
15 shall be provided to separate the parking from public streets and adjacent property; (10) A hard-
16 surfaced, well-marked, and lighted pedestrian access system will be provided consistent with the
17 accessibility standards of the Americans with Disabilities Act Accessibility Guidelines.
- 18 2. Consistent with Section 11.070 Access, the site provides access onto a public street for a minimum
19 of 25 feet.
- 20 3. Consistent with Section 11.080 Clear Vision Areas, the site needs to continue to provide details to
21 assure that clear vision area requirements, are met by construction plans.
- 22 4. Consistent with Section 11.090 Off-Street Parking Requirements (2), the total parking requirements
23 are computed separately and provided on the parcel; (3) one owner owns the uses; (4) off-street
24 parking spaces are provided on the same lot with the dwelling; (5) (b) one space is provided for
25 each guest accommodation; (f) one space is provided for each 200 square feet of floor area and
26 one space for each two employees; (6) required parking is provided for operable vehicles; (7)
27 vehicle areas are proposed to be paved; (8) there are no adjacent residential zones and parking
28 areas are not provided adjacent to the adjacent residential use; (9) parking along the outer
29 boundaries of the lot will be required to be contained by a curb or bumper at least 4-inches high
30 and set back a minimum of four and one-half feet from the property line; (10) artificial lighting shall
31 not create or reflect glare; (12) groups of more than four parking spaces are served by a driveway
32 that does not require backing into a street; (13) loading areas are provided.
- 33 5. Condition of Approval: Consistent with Section 11.090 Off-Street Parking Requirements (11)
34 Additional parking area plan details shall be provided that identify landscaping areas evenly
35 distributed throughout the site. Required planting areas shall have a width of not less than 3 feet
36 and shall be continuously maintained. It is envisioned through discussions with the applicant that a
37 landscaped stormwater facility meeting these criteria, depicted in the City of Portland, Oregon
38 Bureau of Environmental Services (2016) manual will be provided along the boundary of the
39 parking areas.
- 40 6. Consistent with Section 11.111 General Shoreland Development Standards (1) A Shoreline
41 Setback of 30 feet is provided.
 - 42 a. Condition of Approval: The Oregon Department of State Lands shall confirm that the
43 setback is measured from a concurred with boundary.



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- 1 7. Consistent with Section 11.111 General Shoreland Development Standards (3) Waterfront Access
2 is provided and managed by the property owner for a privately-owned public use; (4) Signs shall be
3 located on buildings, not stand-alone; (6) Utilities are proposed to be installed underground; (7)
4 Parking does not require backing into streets and are served by a separate driveway; (9) Erosion
5 Control measures shall be reviewed through an Oregon Department of State Lands 1200-C
6 NPDES Permit to ensure that construction and stormwater does not adversely affect the adjacent
7 natural areas or properties.
- 8 8. Consistent with Wheeler Comprehensive Plan Goal 1 Policy 6, the Planning Commission public
9 hearing is providing for citizen involvement.
- 10 9. Consistent with Wheeler Comprehensive Plan Goal 2 Policy 1, the City provides for cooperative
11 responsibility for land use planning.
- 12 10. Consistent with Wheeler Comprehensive Plan Goal 5 Natural Resources, Scenic and Historic
13 Areas and Open Spaces Policies, Policy 3, a 25-foot riparian setback from Nehalem Bay is
14 provided.
- 15 11. Consistent with Wheeler Comprehensive Plan Goal 7 Natural Hazards, Policy (5) a geologic site
16 investigation report is provided; (6) stormwater is addressed, and will be addressed in construction
17 plans, and (7) the density of development allowed by the City shall be supported by the
18 recommendations of the geologic site investigation report.
- 19 12. Consistent with Wheeler Comprehensive Plan Goal 9 Economic Development, Policy 3 Design
20 Review is occurring for this commercial use.
- 21 13. Consistent with Wheeler Comprehensive Plan Goal 10 Housing, Policy 7, Housing is provided in
22 conjunction with commercial development to provide housing diversity and security.
- 23 14. Consistent with Wheeler Comprehensive Plan Goal 11 Public Facilities and Services, Policies (1)
24 Annexation was requested by the property owner and approved by the City Council on February
25 19, 2019; (3) Public Facilities and Services shall be extended at the property owner's expense; (4)
26 Extension shall be determined by appropriately qualified professionals to be provided in an orderly
27 manner; (5) Adequate stormwater drainage facilities shall be part of development; (7) and (8)
28 Water lines shall be determined if the application is approved to be adequately sized to meet future
29 needs including fire flow requirements at the projected density and usage; (12) The City
30 coordinates with the Nehalem Bay Wastewater Agency, the Nehalem Bay Regional Water Board,
31 and the Nehalem Bay Regional Fire District in a manner consistent with applicable criteria and
32 documents of agreement.
- 33 15. Consistent with Wheeler Comprehensive Plan Goal 12 Transportation, Policies (8) Existing access
34 point(s) to US Highway 101 are utilized; Hemlock Street is provided in the drawings, Rector Street
35 access is potentially available and may be required by ODOT Highway Division to support the
36 proposed density as explained in the ODOT Access Permit Processes and in the Transportation
37 Studies requested and reviewed by ODOT in 2008; (11) Improvement plans do not appear to
38 preclude rail services to Wheeler; the City can check with ODOT Rail Division, and the Surface
39 Transportation Board for additional findings regarding this matter, correspondence is provided by
40 the City Planner in the record; (15) Plans depict (a) a sidewalk to the edge of US Highway 101 that
41 may be approved by ODOT Rail Division as suitable; (c) there should not be any disruptions to the
42 business and residential areas of Wheeler; (d) enhancement of the long-range viability of the
43 downtown and waterfront areas; (e) the minimization of air pollution impacts on adjacent areas; (f)



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1 the provision of appropriate landscaping; (g) protection of views across the Nehalem Bay and
2 surrounding area; (h) enhancement of access to and along the waterfront; (i) opportunities to
3 improve the safety of the coastal bike route by offering the potential for diverting bike traffic.
4

5 Discretionary requirements that rely on the Planning Commission are specified in Section 11.050
6 Design Review (2), (4)(a) Site Design (2-10); and Section 15.090 Basic Conditional Use Standards (3,
7 5, 6).

8 Process Recommendation: The Planning Commission should each review these discretionary criteria
9 and as a decision body make a determination at the Planning Commission public hearing.
10

11 d. Architectural Elevations, Thomas Johnson, August 22, 2019. A-2 Floor Plan. A-4 Elevations.
12

13 Findings:

14 The Architectural Elevations identified in Sheet A-2 Floor Plan and Sheet A-4 Elevations and dated
15 August 22, 2019 prepared by Thomas Johnson, AIA, are provided to address the Applicable Criteria
16 specified in:
17

18 Criteria: Wheeler Zoning Ordinance Section 1.070 Definitions (29) Height of Building; (48) Mean Lot
19 Elevation; Article 2 Water Related Commercial Zone (WRC) Section 2.040 Development Standards (1),
20 (2), (3), (4), (5), (6), (7); Section 11.050 Design Review (2), (3), (4)(b) Building Design (1-11).
21

22 The Planning Commission shall determine that site design meets the applicable criteria. Some of the
23 applicable criteria are prescriptive, and some of the applicable criteria are discretionary and cannot be
24 addressed in these findings of fact. The Planning Commission must determine whether prescriptive
25 requirements are met and whether they have enough information to address discretionary criteria.
26

27 Prescriptive Criteria:

28 Wheeler Zoning Ordinance Section 1.070 Definitions (29) Height of Building; (48) Mean Lot Elevation;
29 Article 2 Water Related Commercial Zone (WRC) Section 2.040 Development Standards (6); Section
30 11.050 Design Review (2), (3).
31

32 Conclusions:

- 33 1. Consistent with Wheeler Zoning Ordinance Section 1.070 Definitions (29) Height of Building; (48)
34 Mean Lot Elevation; Article 2 Water Related Commercial Zone (WRC) Section 2.040 Development
35 Standards (1), Building Height shall be determined to be met.
- 36 2. Consistent with Article 2 Water Related Commercial Zone (WRC) Section 2.040 Development
37 Standards (6) Commercial development is subject to Design Review.
- 38 3. Consistent with Section 11.050 Design Review (2) Design Review is being reviewed for
39 consistency with City Ordinances and the City Comprehensive Plan.
40
41
42
43



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1 Discretionary Criteria:

2 Wheeler Zoning Ordinance Section 11.050 Design Review (4)(b) Building Design (1-11). Article 15
3 Conditional Use / Activities, Section 15.020 Authorization.

4 Process Recommendation: The Planning Commission should each review these discretionary criteria
5 and as a decision body make a determination at the Planning Commission public hearing.
6

7 e. Structural Engineering Plans, Grummel Engineering, LLC, R. J. Grummel, PE #14725 Nov. 28, 2018.

8 Structural Engineering Plans provide recommendations for its development to address the criteria of
9 Wheeler Zoning Ordinance Section 11.020 Geologic Site Investigations. The Report does not address
10 Section 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection, and (6)(c) Final Inspection
11

12 Findings: The applicant has spoken with Robert Grummel, PE, and stated that the PE will be willing to
13 provide the Wheeler Zoning Ordinance Section 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection,
14 and (6)(c) Final Inspection as required by the City if requested by the authorized applicant. In order to
15 use this report to support approval of site construction including and not limited to infrastructure
16 permits, a Zoning Permit and / or a Building Permit, the authorized applicant is required to obtain these
17 services by these professionals of record.
18

19 f. Structural Calculations, Grummel Engineering, LLC, R. J. Grummel, PE #14725, Nov. 28, 2018.

20 A Structural Calculations Report provides recommendations for its development to address the criteria
21 of Wheeler Zoning Ordinance Section 11.020 Geologic Site Investigations. The Report does not
22 address Section 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection, and (6)(c) Final Inspection
23

24 Findings: The applicant has spoken with Robert Grummel, PE, and stated that the PE will be willing to
25 provide the Wheeler Zoning Ordinance Section 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection,
26 and (6)(c) Final Inspection as required by the City if requested by the authorized applicant.
27

28 Conditions of Approval: If the City approves the use, in order to use this report to support approval of
29 site construction including and not limited to infrastructure permits, a Zoning Permit and / or a Building
30 Permit, the authorized applicant is required to obtain these services by these professionals of record.
31

32 g. Geologic Site Investigation Report prepared in part by Marcella Boyer, PE, and Warren Krager, CEG,
33 September 18, 2006 (73 pages).
34

35 A Geologic Site Investigation Report identifies the geologic characteristics of the site and provides
36 recommendations for its development to address the criteria of Wheeler Zoning Ordinance Section
37 11.020 Geologic Site Investigations. The Geologic Site Investigation Report does not address Section
38 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection, and (6)(c) Final Inspection
39

40 Findings: The City Planner has spoken with Warren Krager, CEG. Warren Krager, CEG, has stated
41 that the geology of the site has not substantially changed. He would be willing to provide the Wheeler
42 Zoning Ordinance Section 11.020 (6)(a) Plan Review, (6)(b) Subgrade Inspection, and (6)(c) Final
43 Inspection as required by the City if requested by the authorized applicant.



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1
2 Conditions of Approval: If the City approves the use, in In order to use this report to support approval of
3 site construction including and not limited to infrastructure permits, a Zoning Permit and / or a Building
4 Permit, the authorized applicant is required to obtain these services by these professionals of record.
5

6 ADDITIONAL RECORD DOCUMENTATION:
7

- 8 a. Wetland Boundary Delineation Map, Gregory Kurahashi, PE, 10,053. Date: March 23, 2007.
9 b. DSL Concurrence: Oregon Department of State Lands Wetland Concurrence, October 25, 2007.
10 c. Nehalem River Ordinary High-Water Line Report, Kurahashi and Associates, Inc. March 23, 2007.
11 d. Oregon Department of State Lands Sale of "historically filled lands", an act DSL determined necessary
12 to allow the full development of the "uplands" including these "new lands". Motion by Treasurer
13 Wheeler, great grandson of the founder of Wheeler Sawmill. Second by Secretary Brown. Motion
14 approved June 11, 2013. Reported in June 13, 2013 minutes. Map attached.
15

16 Conclusions:

17 The wetland boundary, from which the Wheeler Zoning Ordinance Section 11.111(1) 30-foot shoreline
18 setback and the Wheeler Comprehensive Plan Goal 5 Policy 3, 25-foot riparian setback is measured,
19 requires concurrence from the Oregon Department of State Lands. The Oregon Department of State
20 Lands concurred with the boundary depicted by survey in 2007 by applicant Civil Engineer Greg
21 Kurahashi, Kurahashi and Associates, Inc. The City Planner and applicant Civil Engineer Greg
22 Kurahashi, Kurahashi and Associates, Inc spoke and emailed with the Oregon Department of State
23 Lands representative Michael DeBlasi. Michael DeBlasi indicated that he would be likely to confirm the
24 previous survey as still accurate once concurrence was requested by the applicant.
25

- 26 e. Traffic Impact Analysis Report (August 29, 2007), Addendum (April 1, 2008), and update letter
27 (October 9, 2018) by CTE Engineers regarding access to US Highway 101.
28 f. ODOT Highway Approach Permit Guidance and Timeline documents. (For Change of Use or New).
29 g. Oregon Department of Transportation Highway Division Request for Traffic Impact Analysis Report and
30 Review of the Traffic Impact Analysis Report (June 6, 2008).
31

32 Conclusions:

- 33 1. ODOT Highway Division: In 2007, ODOT Highway Division representative Ingrid Weissenbach
34 requested a Traffic Impact Analysis study. The property owner retained CTE Engineers to provide
35 the study. ODOT Highway Division requested an addendum to the analysis. CTE Engineers
36 provided the study again at the cost of the property owner. The report was written for the property
37 development but it is a study of the access to the property that is part of the ODOT Records and
38 the City Records.

39 2. Conditions of Approval:

- 40 a. ODOT Highway Approach Permit: If the City approves the use, as explained in the
41 "Highway Approach Permit Timeline and Guidance Document", the authorized applicant is
42 required to again apply for a Change of Use Approach Permit from ODOT Highway
43 Division. ODOT will determine if the information in the record is sufficient or if additional



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1 information is needed to approve the request. Highway 101 is an ODOT Facility and they
2 are the road authority.

- 3 b. City Participation: The City will have the opportunity to comment on the design
4 characteristics of the facility when they sign the "Land Use Compatibility Statement".
5 c. Hemlock Street / Rector Street Accesses: The 2007 Traffic Impact Analysis indicated that
6 access should be connected to the Rector Street railroad crossing. The Port of Tillamook
7 Bay has indicated in comments to the City Planner and to the applicant that they are open
8 to providing an easement as may be necessary to connect this property to the Rector
9 Street Crossing. The applicant has indicated that an easement would also be needed from
10 the adjacent property owner Rick Dart and has stated that Rick Dart has indicated that he
11 would provide that easement. Those details have not been finalized and will be the
12 responsibility of the property owner to accomplish if the access becomes a condition of
13 access approval.
14

- 15 h. Oregon Department of Transportation Rail Division: "At Grade Rail Crossings Guidance"
16 i. Hemlock Street Crossing Orders: Oregon Department of Transportation Rail Division, Public Utility
17 Commissioner, (#85-413) (Order #87-820 August 10, 1987); (Order # 51283 September 13, 2018);
18 j. Rector Street Crossing Orders: Oregon Department of Transportation (ODOT) Rail Division, Public
19 Utility Commissioner, (#892 October 14, 1922); (Order # 50194 June 4, 2003);
20 k. Oregon Department of Transportation (ODOT) Rail Division Orders to the Railroad Owner: Southern
21 Pacific Company and the Port of Tillamook Bay Railroad (1986 – present); (Order # 36726 February 5,
22 1959); (Order # 50469 January 10, 2007);
23 l. Surface Transportation Board Decision regarding Rail Line Authority and Joint Notice of Interim Trail
24 Use / Rail Banking Agreement filed by the POTB counsel in accordance with 49 C.F.R. § 1152.29(h).
25

26 Conclusions:

- 27 1. ODOT Rail Division: 1985, ODOT approved Crossing Order 85-413 to build a public street crossing
28 to support the "integrated marina complex" proposed by the Botts Marsh Goal 16 Exception. In
29 1987, ODOT approved an extension to complete substantial construction of the crossing
30 improvements. In 2007, correspondence from ODOT representative Dave Lanning stated that the
31 crossing had been constructed. In 2018, the Rail Riders requested an amendment to the crossing
32 order, Crossing Order #51283 to locate their rail rider use on the Port of Tillamook Bay Railroad
33 right-of-way. This Crossing Order stated that only 6 cars per day cross the tracks on average.
34 2. Surface Transportation Board: The Surface Transportation Board oversees use of the rail line by
35 the Railbanked Port of Tillamook Bay and the Salmonberry Trail Intergovernmental Agency Trail
36 Use Agreement.
37 3. Conditions of Approval:
38 a. ODOT Rail Division Crossing Permit: If the City approves the use, as explained in the "At
39 Grade Rail Crossings Guidance" the authorized applicant will need to apply for a Change
40 of Use Crossing Permit from ODOT Rail Division. ODOT Rail Division will determine the
41 conditions and construction characteristics of the crossing.
42 b. City Participation: The City will have the opportunity to comment on the design
43 characteristics of the facility.