

STAFF REPORT

TO: Wheeler Planning Commission
FROM: Walt Wendolowski, Contract Planner
SUBJECT: Planning File #0701-21-1 DR
DATE: September 16, 2021

I. BACKGROUND

- A. **APPLICANT:** Kenneth Ulbricht (for property owned by Bott's Marsh, LLC).
- B. **PROPERTY LOCATION:** The site is located on the west side of Highway 101 and the railroad tracks, approximately opposite Hemlock Street. There is no site address and the County Assessor places the site within Township 2 North; Range 10 West; Section 02BB; Tax Lot #400 and Township 2 North; Range 10 West; Section 02BC; Tax Lot #4800.
- C. **PARCEL SIZE:** Tax Lot 400 - 0.45 acres; and Tax Lot 4800 - 1.72 acres.
- D. **EXISTING DEVELOPMENT:** The vacant lot fronts a public street. Services can be extended to the site.
- E. **ZONING:** Tax Lot 400: Industrial (IND); Tax Lot 4800: Water Related Commercial (WRC).
- F. **ADJACENT ZONING AND LAND USE:** Highway 101 and the railroad right-of-way border the property on the east and the Nehalem River to the west. Property to the north is located outside City limits while WRC zoned land to the south is vacant.
- G. **REQUEST:** The applicant is requesting approval of a Design Review application to construct a building that includes the processing, storage and retail sales of fish and shellfish.
- H. **DECISION CRITERIA:** This application will be evaluated against the design review standards listed in the Wheeler Zoning Ordinance, Section 11.50 (Design Review); Section 11.110 (Shoreland Development); Article 2 (WRC Zone); and Article 3 (Industrial Zone).

II. APPLICATION SUMMARY

- A. The applicant wishes to construct a building that will allow processing and retail sales of fish and shellfish. The project will feature the following:

1. The project is in two distinct parts. An 8,780 square foot fish processing and warehousing facility will be located entirely on Industrial zoned portion of the site. Fish and shellfish will be cold-stored and shipped from this site along with some limited processing. Attached to this structure, and located entirely within the WRC zoned portion of the site, will be a 1,500 square foot retail market. This part of the structure includes a second floor to be used as an office and for storage.
 2. The Industrial side will feature a gray, vertical metal building along with a metal roof. Two bay doors will be located on the east side of the building (facing the parking lot) to receive/ship the product. The retail portion of the site will feature the same metal structure on the first floor, with a second floor finished in wood siding. This second floor runs perpendicular to the ground floor and includes large windows with views of the Nehalem River. The roof on the commercial side matches the industrial roof.
 3. Primary access to the site is off Highway 101 via Hemlock Street. A driveway serving both facilities extends off of Hemlock Street/Marine Drive to access the project.
 4. The driveway provides direct access to the site's parking. A total of 18 spaces were included on the site plan; six within the WRC zoned portion of the site and the remaining on the Industrial side. Each parking space is located next to the surrounding concrete walkway.
 5. Landscaping improvements are located on the south, west and north side of the site. The landscaping will primarily be fescue grasses and additional soil will be brought in as part of the improvements. Irrigation will be installed. Existing natural vegetation will border the site on the east. The applicant indicates all trees greater than 6" at a 4' height will remain.
 6. A lighting plan shows the exterior lighting to be dominated by gooseneck lamps which shine directly onto the ground. One light on the south side of the processing building is a cylinder-type lamp which shines both downward and skyward.
- B. The City sent notice of this application to affected agencies and area property owners. Three letters in support of the request were submitted. A letter was submitted raising questions concerning aesthetics, traffic impacts, and housing impacts. No agency submitted comments.

III. ADMINISTRATIVE PROCESS

- A. Pursuant to Wheeler Development Ordinance Section 2.020.7, "retail/wholesale fish and shellfish sales" is an outright permitted use in the WRC zone. Per

Section 2.040, the new use must comply with the shoreland development standards in Section 11.110, and, comply with the design review requirements in Section 11.050. Within the Industrial zone, Section 3.020.7, allows “seafood processing” as an outright permitted activity. As with the WRC zone, Section 3.040 requires the new use to comply with the shoreland development standards in Section 11.110, and, design review requirements in Section 11.050.

- B. Neither the WRC or Industrial zone include any setback requirements. Effectively structures may be built right up to the property line. The only development limitation is building height, which at 24-feet, applies to both zones (Section 2.040.1 and Section 3.040.1). Without setback provisions, buildings may be physically connected provided they comply with applicable building and fire code requirements.
- C. This project encompasses two distinct zones. The Zoning Ordinance does not prohibit development in more than one zone. The only applicable requirement is that a proposed use must be identified as permitted or conditionally permitted in their respective zone.
- D. Based on these factors, staff concludes the following:
 - 1. The proposed seafood processing plant and seafood retail sales outlet are outright permitted uses in their respective zones.
 - 2. As outright permitted uses in the WRC and Industrial zones they are only subject to the design review process and compliance with the shoreland development standards.
 - 3. The buildings may be attached provided the improvements comply with building and fire code requirements.
 - 4. Nothing in the Zoning Ordinance prohibits an applicant from developing a single project that involves more than one zone.
- E. As noted, while two separate zones and uses, both are subject to the exact same review provisions. Therefore, this report addresses the design review and shoreland development criteria for the combined facility instead of separate reviews for each use.

IV. CRITERIA AND FINDINGS –DESIGN REVIEW

- A. The requirements for design review are contained in Section 11.050. Subsection 1. require a design review for commercial and industrial development.

FINDINGS: A design review is required as the project involves both commercial and industrial development.

B. Section 11.050.2., states “(W)hen 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: The scheduled hearing before the Planning Commission is consistent with the public hearing requirement. Applicable Plan policies address commercial and industrial development generally, and, the shorelands area specifically. The policies and findings are noted below:

1. Goal 9 Policy #3 - Commercial and industrial development in any zone shall be subject to design review by the Planning Commission.

FINDINGS: This application and Commission review are consistent with this Policy.

2. Goal 16 Policy 2 A. - The City of Wheeler, Oregon includes areas within the Estuary Natural Management Unit designated as Estuary Natural Zone (EN), and areas within the Estuary Development Management Unit designated as Estuary Development Zone (ED).

FINDINGS: The City implemented Estuary Development Management Unit through the application of the WRC and Industrial zones.

3. Goal 16 Policy 2.C.2.b. - The management objective in the Estuary Development Zone is to provide for the expansion or creation of other commercial, industrial or recreational facilities subject;

FINDINGS: The request would establish a new commercial/industrial enterprise, consistent with this Policy.

4. Goal 16 Policy 4.J.8. - Industrial uses shall be identified as water-related industrial uses on a case-by-case basis, with consideration given to the public loss of quality in goods or services which would result if the use were not offered adjacent to water. Water-related industrial uses could include:

- a. fish or shellfish processing plants; and
- b. warehousing and/or other storage areas for marine equipment or water-borne commerce.

FINDINGS: The Industrial zoned portion of this project includes a processing plant and warehousing, consistent with this Policy.

5. Goal 16 Policy 4.J.9. - Commercial uses shall be identified as water-related commercial uses on a case-by-case basis with consideration given to the public loss of quality in goods or services which would result if the

use were not offered adjacent to water. Water-related commercial uses could include:

- a. fish or shellfish wholesale outlets;
- b. marine craft or marine equipment sales establishments;
- c. sport fish cleaning, smoking or canning establishments;
- d. charter fishing offices;
- e. retail trade establishments providing primarily products necessary for the commercial and recreational fishing industry, such as ice, bait, tackle, nautical charts, gasoline, or other products incidental to, or used in conjunction with a water-dependent use; or
- f. restaurants which provide a waterfront view.

FINDINGS: In implementing this Policy, the City identified retail fish sales as a suitable permitted commercial use.

6. Goal 16 Policy 4.J.11. - Multipurpose and cooperative use of piers, wharves, parking areas, or handling and storage facilities shall be provided for, whenever practicable.

FINDINGS: Consistent with this Policy, the layout includes shared parking serving two separate operations.

7. Goal 16 Policy 4.J.12. Water-related and non-dependent, non-related industrial and commercial uses in Estuary Development zones shall be limited to those uses which:
 - a. do not require the use of fill; and
 - b. do not preclude the provision or maintenance of navigation and other needed public, commercial and industrial water-dependent uses.

FINDINGS: The facility does not require the use of fill nor precludes provisions for the maintenance of water-dependent uses.

8. Compliance with Zoning Ordinance provisions.

FINDINGS: The following Subsections address compliance with the Ordinance provisions.

- C. Section 11.050.3., establishes the application requirements.

FINDINGS: The applicant submitted sufficient information to proceed with the request.

- D. Subsection 4.a., establishes the guidelines to review the Site Design. Each guideline is reviewed below:

1. Subsection 4.a.(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.

FINDINGS: The site is generally level and currently graded to allow development. There does not appear to be topographic features on-site that warrant retention.

2. Subsection 4.a.(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.

FINDINGS: Based on the site plan and submitted information, all trees greater than 6" diameter at a 4' height will remain. Otherwise, except for a landscaped lawn, all remaining ground cover will be in natural vegetation.

3. Subsection 4.a.(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.

FINDINGS: For a site this size, a National Pollutant Discharge Elimination System (NPDES) 1200c permit is required through the Oregon Department of Environmental Quality. This may be placed as a condition.

4. Subsection 4.a.(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.

FINDINGS: As noted, the lighting plan shows the exterior lighting to be dominated by gooseneck lamps which shine directly onto the ground. One light on the south side of the processing building is a cylinder-type lamp which shines downward and skyward. On balance, these improvements appear to provide adequate lighting and security without interfering with adjacent properties. In addition, the plan complies with lighting provisions in Section 2.040.3 and Section 3.040.3.

5. Subsection 4.a.(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.

FINDINGS: According to the applicant, outdoor services will be screened by a six-foot cedar fence and all trash areas covered. This also complies with the screening provisions in Section 2.040.2 and Section 3.040.2. The submitted plans did not identify roof top equipment. If so installed, these must be screened, and along with the roof, not exceed the 24-foot height limitation.

6. Subsection 4.a.(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.

FINDINGS: Walkways will connect the parking area to each building entrance (commercial and industrial). Except for a break due to two garage entrances, pedestrian access will connect both parts of the facility. In addition, the entrance to the commercial portion includes a covered courtyard.

7. Subsection 4.a.(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.

FINDINGS: This is a mixed commercial/industrial development. While designed to attract the public through retail sales, it is not designed nor intended to be a public park. However, the site will be landscaped and mature trees will be retained. In addition, the entrance to the commercial side of the facility includes a covered courtyard which provides an additional amenity.

8. Subsection 4.a.(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.

FINDINGS: The site is relatively flat with natural vegetation surrounding a large dirt/gravel area. A submitted plan identified existing significant trees that will be retained. Plans also showed a lawn surrounding the facility, that along with any drainage improvements, will help reduce storm water run-off. Maintaining this green space requires the installation of irrigation facilities.

Section 3.040.4. states “(W)hen a use abuts a lot in a non-industrial zone, there will be an attractively designed and maintained buffer which can be in the form of vegetation, fencing, or walls.” This requirement is certainly applicable when the abutting lots are under separate owners and uses. However, this project is under a single ownership with a shared access, parking area and purpose, effectively designed to work as a single unit. The buffering requirement is not applicable in this case.

9. Subsection 4.a.(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.

FINDINGS: The parking design complies with these requirements. The spaces are placed in groups containing no more than eight spaces and walkways connect the parking areas to facility.

In addition, specific parking requirements are contained in Section 11.090 of the Zoning Ordinance. Retail spaces require one space per 200 square feet of floor area plus one space per two employees. The 1,500 square foot retail space requires 7.5 spaces (1500/200) plus two employee spaces for a total of 9.5. A warehousing, storage, wholesale type of business requires one space per storage unit plus a space per employee during the largest shift. The applicant notes there are four storage spaces (although this is effectively a single storage unit) within the structure with a maximum of 3 or 4 employees on site. This requires a maximum of 8 spaces. Therefore, 17.5 spaces are required. The site layout identifies 18 spaces, thereby meeting this requirement.

While under a single ownership, the project involves two separate parcels. Therefore, it is possible one or both to be conveyed to new owners. To ensure shared parking remains, it is appropriate to require a reciprocating access and parking easement between the two parcels. This may be placed as a condition.

10. Subsection 4.a.(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.

FINDINGS: Based on the site plan and supporting information, the paved parking area will be surrounded by a concrete walkway which connects to both the commercial and industrial portions of the building. Building lighting is available to assist.

- E. Subsection 4.b., establishes the guidelines to review the building design. Each guideline is reviewed below:

1. Subsection 4.b.(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 applicable city ordinances.

FINDINGS: The submitted plan information indicates the building will not exceed 24-feet, which complies with the Zoning Ordinance limitation. The building combines gray metal siding; a dark gray roof; wooden trim, including a board and batten exterior on the commercial second floor; and white window trim. It must be noted the Ordinance does not specify a particular exterior material finish or color requirement, nor are there buildings directly adjacent to the proposed facility to create a comparison. Given the type of building, the size and finish appear reasonable to accommodate the uses without creating an unsightly structure.

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

FINDINGS: The industrial portion is finished in earth tone colors with contrasting wood trim and does not include any bright or brilliant colors. The commercial portion has a similar color scheme but the second floor has a board and batten wood exterior finish.

This subsection notes the architectural style should not be restricted. Given a majority of the building area is devoted to industrial activity, it is difficult to match the design expectations of this subsection with an industrial activity. On balance, the design accommodates each use; does

not establish an unusual or unsightly structure; and, is in general keeping with the expectations of this subsection.

3. Subsection 4.b.(3) - Monotony of design in single or multiple building projects shall be avoided. Variety of detail, form, and site design shall be used to provide visual interest. In a Planned Development, no more than 25% of all buildings in the development shall replicate the same roofline or footprint.

FINDINGS: Overall, the building has a mix of features which avoid a repetitive design. There is a break in the roof line as well as different levels of roof elevations. The second floor of the commercial portion has a wooden exterior finish contrasting with the metal structure. The exterior industrial portion of the building (facing the parking lot) has several windows breaking up the monotony of the blank wall. This also applies to the entrance (and second floor) of the commercial side. Provisions regarding planned developments do not apply to this request.

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

FINDINGS: This subsection does not apply as there are no residences or similar facilities adjacent to the site.

5. Subsection 4.b.(5) - The impact that structures will have on views from adjacent or other areas will be taken into account.

FINDINGS: The improvements will obviously restrict some views as one enters the site. However, the building only occupies approximately 11% of the site and does not exceed the height limitations of the respective zones. Although not a public park, public views are still available at the covered courtyard to the commercial entrance.

6. Subsection 4.b.(6) - The property owner shall establish one street facing entrance or store front with access acceptable to the City.

FINDINGS: This structure does not “face” a street in the typical sense. The commercial storefront faces a covered courtyard; is readily visible from the parking lot; and, accessible via a concrete walkway. On balance, this access is acceptable.

7. Subsection 4.b.(7) - The street facing entrance or store front shall provide windows or window displays a minimum of 4 feet in height along the ground floor street-facing frontage for a minimum of 50 percent of the horizontal length of the building. Glass doors may be credited toward the

50 percent requirement. This section shall not apply to multifamily dwellings.

FINDINGS: These provisions apply to the commercial storefront located on the WRC portion of the site. Based on the submitted information, at least 54% of the storefront contains windows and glass doors. While these provisions are limited to storefront entrances, it must be noted the industrial portion facing the parking lot also contains windows which help break-up the monotony of the exterior wall.

8. Subsection 4.b.(8) - Architectural features or landscaping shall be provided for at least 30 percent of the wall length on each street facing elevation.

FINDINGS: On the street facing portion of the structure, the applicant calculated that 48-feet of the 112-foot length is landscaped, primarily lawn. This amounts to 42.8% of the frontage, exceeding the 30% requirement.

9. Subsection 4.b.(9) - Multi-story commercial, mixed-use or multifamily dwellings shall have ground floors defined and separated from upper stories by architectural features that visually identify the transition from ground floor to upper story.

FINDINGS: The commercial portion of the structure has a distinct roof separation and exterior finish (metal ground floor, wood second floor) which visually separates the two floors. In addition, the second floor runs perpendicular to the ground floor.

10. Subsection 4.b.(10) - Provide recessed shielded lighting on street-facing elevations. Provide articulated facades for every 40 feet of building length. Articulated facades shall contain at least one of the following features: building offsets, projections, changes in elevation or horizontal direction, or a distinct pattern of divisions in surface materials. Large expanses of blank walls shall only be located in areas that are not visible to the public.

FINDINGS: The lighting plan was previously reviewed, noting the number of shielded lighting fixtures. The north and west sides of the structure contain blank walls but are not visible from the street. The east of the structure shows two separate roof elevations, with a mix of windows and vehicle entrance doors. While these façade improvements are likely intended for commercial uses, the improvements on the industrial portion of the site effectively break up the monotony of a blank wall.

11. Subsection 4.b.(11) - New commercial or mixed-use residential/commercial structures shall be encouraged to provide weather protection for pedestrians along street facing elevations.

FINDINGS: This provision does not apply as the request does not include a residential component. However, as noted, the commercial entrance includes a covered courtyard.

- F. Subsection 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.

FINDINGS: This subsection allows the Commission to require a performance bond for infrastructure improvements of an approved development. As such, this may be placed as a condition of approval. It is recommended a performance bond be required to ensure completion of any facility improvements.

- G. Subsection 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.

FINDINGS: This subsection applies to an approved decision. Both the City and applicant are responsible to ensure provisions in this subsection are enforced.

- H. Subsection 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.

FINDINGS: This is an administrative process. Requirements in this subsection only apply to approved decisions and are not related to design elements of the current request.

- I. Subsection 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.

FINDINGS: This is an administrative process. Requirements in this subsection only apply to decisions that were denied and are not related to design elements of the current request.

V. CRITERIA AND FINDINGS
SHORELAND & ESTUARINE DEVELOPMENT STANDARDS

- A. Section 11.110 addresses the standards for shoreland and estuarine development standards. These standards apply to uses in the following zones: Water-Related Commercial (WRC), Water-Related Industrial (IND), Water-Dependent Development (WDD), Estuarine Natural (EN), and Estuarine Development (ED).

FINDINGS: This provision applies as the project includes land within Water-Related Commercial (WRC) and Water-Related Industrial (IND) zones.

- B. Section 11.111 establishes the general standards shall apply to all shoreland uses. Each standard is reviewed below:

1. Setback. The shoreline setback for non-water dependent uses shall be 30 feet. In cases where a proposed use would be located between two existing structures that infringe on the 30-foot setback line, the Planning Commission, after a public hearing, may allow the structure to extend up to the setback of the adjacent structures, but in no case less than ten feet from the shoreline. The setback shall be measured horizontally upland from the line of non-aquatic vegetation or mean higher-high water.

FINDINGS: Based on submitted information, the buildings will comply with the 30-foot setback requirement. This can be verified through the building permit process.

2. Riparian Vegetation. All uses and structures shall be set back fifteen (15) feet from Vosberg Creek unless direct water access is required in conjunction with a water-dependent use. All uses and structures shall be set back twenty-five (25) feet from the estuarine area located east of Highway 101, at the north end of the City (designated EN/mp) unless direct water access is required in conjunction with a water-dependent use. Riparian vegetation shall be protected and retained within the required setback with the following exceptions:
 - a. The removal of trees which pose an erosion or safety hazard;
 - b. Vegetation removal necessary to provide direct water access for a water-dependent use; or
 - c. Vegetation removal necessary to place structural shoreline stabilization when other forms of shoreline stabilization are shown to be inadequate.

FINDINGS: The site is not located near Vosberg Creek nor within the identified Estuary Natural area. Except for related site grading, there is no indication riparian areas will be disturbed.

3. Waterfront Access. Waterfront access for the public such as walkways, trails and landscaped areas will be provided, whenever possible and where consistent with public safety.

FINDINGS: The project includes both commercial and industrial activities and is not designed for public recreation. On the industrial side, public safety concerns with truck (and possibly forklift) traffic precludes public access to the waterfront and shore. However, the commercial side has a covered courtyard where customers can view the Nehalem River and adjacent shoreland.

4. Signs. Signs for commercial and industrial uses shall be constructed against a building.

FINDINGS: Sign permits are issued separately. Installation of any signs must comply with provisions in this Section and the sign requirements in Section 11.100 of the Zoning Ordinance.

5. Lot Area. Marsh and other aquatic areas will not be used to compute lot area or density, except when a conditional use permit allowing filling or pilings has been granted.

FINDINGS: This subsection is not applicable as neither zone has a minimum lot size requirement.

6. Utilities. Whenever feasible, utility lines will be located underground and along existing rights-of-way. Above ground utilities are subject to design review by the Planning Commission. All above ground utilities should be designed to minimize view interference and the amount of land clearing.

FINDINGS: The location and installation of inground facilities will be reviewed during submittal of engineering plans. The applicant did not request the installation of above ground utilities.

7. Parking. Parking facilities shall not be located over the water, or within 20 feet of the line of non-aquatic vegetation.

FINDINGS: The location of the parking lot complies with these provisions.

8. Architectural Design. All proposals for structural development will be subject to design review standards of Section 11.050.

FINDINGS: Compliance with this subsection was previously reviewed.

9. Erosion Control. Non-structural solutions to erosion and flood control problems will be used whenever practical.

FINDINGS: The site plan identified storm drainage improvements which will also be augmented by the planting of the lawn. In addition, a NPDES 1200c permit from DEQ will be required prior to construction.

VI. OTHER CONSIDERATIONS

- A. The Zoning Ordinance does not contain specific provisions regarding water, sanitary sewer and storm sewer provisions. These services will be required and engineering plans must be submitted to ensure compliance with applicable City and agency requirements.
- B. Hemlock Street, south of Highway 101 and the railroad right-of-way, provides access to the site. Given the operation generates both vehicle and truck traffic on this portion of Hemlock, it is appropriate to require some level of improved access. This also avoids migrating gravel from adjacent unimproved roads. It is recommended the roadway south of the railroad tracks be paved to the entrance of the site. The recommended paving width is 24-feet. Given the lack of pedestrian facilities on Highway 101, Hemlock and Marine Drive, sidewalks would not be required.

VI. RECOMMENDATION AND CONDITIONS OF APPROVAL

City staff finds the proposal generally complies with the applicable Design Review and Shorelands criteria and recommends the Planning Commission approve the application subject to the following Conditions:

- A. The Design Review shall be limited to the proposed fish processing/retail sales complex as submitted and approved by the Planning Commission. The applicant is advised that any change in use, modification or other departure from the approval may require additional land use applications and approvals.
- B. Prior to development, the applicant shall:
 1. Participate in a pre-engineering conference with the applicable public and private facility providers to coordinate facility improvements. This conference shall occur prior to submitting engineering plans.
 2. If applicable, apply to the Oregon Department of Transportation for a permit to work within the railroad right-of-way.
- C. The developer shall submit engineering plans to the City of Wheeler addressing water, storm water, street and similar facility improvements. Sanitary sewer plans shall also be submitted the Nehalem Bay Wastewater Agency (NBWA).

These plans shall be reviewed and approved by the City and NBWA prior to construction. Plans shall conform to provisions in Condition of Approval "G."

- D. The developer shall submit a building permit for construction of the proposed building, conforming to the applicable building code requirements. The submitted site plan shall substantially conform to the approved layout and include landscaping irrigation plans. Building permits may be submitted concurrent with engineering plans; however, building shall not proceed until such time engineering plans, including applicable Nehalem Bay Wastewater Agency and Oregon Department of Transportation permits, are approved.
- E. Prior to receiving a building permit, the developer shall submit evidence of a reciprocal access and parking agreement between Tax Lot 4800 and Tax Lot 400. The agreement shall be on a form acceptable to the City and recorded against the deed record of each property.
- F. Prior to occupancy, the developer shall complete the following:
 - 1. The applicant shall extend or install sanitary sewer, water and storm drainage facilities to serve the development. The improvements shall comply with the plans approved by the City of Wheeler and Nehalem Bay Water Agency.
 - 2. All parking improvements, including paving, stripping, driveways and other requirements, shall be installed in compliance with the parking layout on the approved building and engineering plans.
 - 3. Improve Hemlock Street south of the railroad, consistent with approved Oregon Department of Transportation permit and City of Wheeler engineering plans.
- G. Public facility and street design, constructions and maintenance shall be subject to the following:
 - 1. All public utility installations shall conform to the City's facilities plans. The applicant shall pay plan review, inspection, and permit fees as determined by the Public Works Director.
 - 2. All improvements shall comply with the standards and requirements of the Wheeler Public Works Department. Adequate bonding, or other financial instrument acceptable to the City, shall be obtained to complete any street and facility improvements. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges.
 - 3. The Hemlock Street paved improvement width shall be 24-feet, unless the City Engineer or the Oregon Department of Transportation deem an alternate width is required.

4. Prior to final engineering plan approval by the City, written approval of construction drawings must be received from ODOT for any work within the railroad right-of-way.
 5. All parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material. The applicant shall stripe the proposed parking spaces per State of Oregon (ORS 447.233) and the Americans with Disabilities Act.
 6. An NDEPS 1200c permit shall be completed for the project site and approved by Oregon Department of Environmental Quality prior to development at the site.
 7. Unless impractical or otherwise prohibited, all new utility lines for development shall be placed underground.
- H. Unless otherwise modified by this decision, the improvements shall comply with the development requirements of the Wheeler Zoning Ordinance.
- I. Compliance with these conditions, the requirements of the Wheeler Zoning Ordinance, Nehalem Bay Wastewater Agency, Oregon Department of Transportation and applicable building code provisions shall be the sole responsibility of the developer.
- J. The Applicant is herein advised that the use of the property involved in this application may require additional permits from the City or other local, State or Federal agencies. The City of Wheeler land use and review and approval process does not take the place of, or relieve the Applicant of responsibility for acquiring such other permits, or satisfy any restrictions or conditions thereon.

VII. PLANNING COMMISSION ACTION

- A. The Planning Commission has the following options:
1. Approve the application, adopting findings and conditions contained in the staff report;
 2. Approve the application, adopting modified findings and/or conditions;
 3. Deny the application, establishing findings as to why the application fails to comply with the decision criteria.
- B. Staff will prepare the appropriate document for the Chair's signature.