



City of Rockaway Beach

Planning Commission Meeting Agenda

Date: Thursday, May 16, 2024
Time: 5:00 P.M.
Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

Watch live stream here: <https://corb.us/live-stream>
View meeting later here: <https://corb.us/planning-commission/>

Join here to attend remotely:

<https://us06web.zoom.us/j/85288184822?pwd=jwca1XSIKKLWDwIYriX0Wp0EQgiSy0.1>

Meeting ID: 852 8818 4822

Passcode: 651816

Dial by your location

253 215 8782 US (Tacoma)

- 1. CALL TO ORDER** – Bill Hassell, Planning Commission President
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
President: Bill Hassell
Commissioners: Pat Olson, Zandra Umholtz, Sandra Johnson, Georgeanne Zedrick, Stephanie Winchester, and Nancy Lanyon
City Councilors: Charles McNeilly, Mayor; and Mary McGinnis, Planning Commission Liaison
- 4. APPROVAL OF MINUTES**
 - a.** April 18, 2024 Meeting Minutes
- 5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS** – None Scheduled
- 6. STAFF REPORTS**
- 7. PUBLIC HEARING**
 - a.** Variance #24-02: Consideration of an Application for a Variance at 101 S. Miller Street in Rockaway Beach (Tillamook County Assessor's Map # 2N1032CC Lot #9600) to Decrease the Number of Required Parking Spaces to Construct a New Mixed-Use Building
- 8. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 9. OLD BUSINESS**
 - a.** Discussion Regarding Updates to Sign Ordinance
- 10. NEW BUSINESS** – None Scheduled
- 11. PLANNING COMMISSION COMMENTS & CONCERNS**
- 12. ADJOURNMENT**



City of Rockaway Beach

Planning Commission Meeting Minutes

Date: Thursday, April 18, 2024

Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

1. CALL TO ORDER

Planning Commission President Hassell called the meeting to order at 5:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Start time: [05:00:45 PM \(00:00:28\)](#)

[Position #2 - Stephanie Winchester: Present](#)

[Position #3 - Pat Olson: Absent](#)

[Position #7 - Georgeanne Zedrick: Present](#)

[Position #5 - Bill Hassell: Present](#)

[Position #1 - Zandra Umholtz: Present](#)

[Position #4 - Sandra Johnson: Present](#)

[Position #6 - Nancy Lanyon: Present](#)

President: Bill Hassell

Commissioners Present: Sandra Johnson, Nancy Lanyon, Pat Olson, Zandra Umholtz, Stephanie Winchester, and Georgeanne Zedrick

Excused: Pat Olson

Council Members Present: Charles McNeilly, Mayor; and Mary McGinnis, Planning Commission Liaison

Staff Present: Luke Shepard, City Manager; Mary Johnson, City Planner; and Melissa Thompson, City Recorder

4. APPROVAL OF MINUTES

Start time: [05:01:21 PM \(00:01:03\)](#)

Umholtz made a **motion**, seconded by Winchester, to approve the March 21, 2024 minutes as presented.

The **motion carried** by the following vote:

[Position #1 - Zandra Umholtz: Motion](#)

[Position #2 - Stephanie Winchester: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)
[Position #5 - Bill Hassell: Approve](#)
[Position #1 - Zandra Umholtz: Approve](#)
[Position #4 - Sandra Johnson: Approve](#)
[Position #6 - Nancy Lanyon: Approve](#)

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS – None Scheduled

6. STAFF REPORTS

Start time: [05:02:15 PM \(00:01:57\)](#)

City Planner Johnson provided updates on the following:

- In March 2024, staff approved zoning permits for 3 sheds, 2 interior/exterior remodel projects and 2 new single-family dwellings.
- Status updates on the Anchor Street and Wayside projects.
- Staff met with Cascadia Partners for the first Project Management Team meeting to kick-off the middle housing code update project.
- Update on software companies that specialize in STR management.

7. PUBLIC HEARING

Start time: [05:05:56 PM \(00:05:39\)](#)

a. **Variance #24-01: Consideration of an Application for a Variance at 911 S Coral Street (Tillamook County Assessor's Map # 1N1005CB Lot #603) to Increase the Maximum Allowable Size of an Accessory Dwelling Unit**

McGinnis explained that she was recusing herself from the meeting because decisions are subject to appeal by the City Council, and she is a member of the City Council.

McNeilly and McGinnis recused themselves from the meeting.

Hassell opened the public hearing at 5:06 p.m.

Hassell read opening statements, public hearing disclosure statements and procedures, and testifying instructions. He explained that the Applicants are Donald and Kelly Greene, and the hearing will be on an application requesting approval of a variance to construct an oversized accessory dwelling. Hassell stated that the Applicants seek to construct an accessory dwelling unit that is 872 square feet on the second floor of a preexisting general-purpose building, which would be used as the full-time residence of the property owners. He explained accessory dwelling units (ADUs) are limited to 800 square feet or 75 percent of the primary residence, whichever is lesser.

Hassell invited Commissioners to declare any bias or conflicts of interest. None were declared. There were no challenges from the audience on the basis of bias.

Hassell invited Commissioners to declare any ex-parte contact. Zedrick and Johnson reported that they made site visits. Commissioner Johnson reported that just prior to the meeting, she and

Umholtz commented to each other that they had questions about the square footage of the proposed ADU.

City Planner Johnson presented the Staff Report, introducing it with a PowerPoint presentation. (A copy of the presentation is included in the hearing record.) Staff concluded that the criteria for approval had been met.

City Planner Johnson reported that written testimony was received from Thon Van Tran in support of the application, and none was received in opposition.

In response to Commissioner questions, City Planner Johnson explained that a previously approved zoning permit was not expired, but didn't specifically approve living space, which is required for a certificate of occupancy. City Planner Johnson clarified that a variance was required based on both the square footage and 75 percent of primary dwelling criteria. She confirmed that the primary residence was a manufactured home and there were no short-term rental permits issued for the property. City Planner Johnson clarified for Commissioners that there was no variance needed for the original permit.

The Applicant, Don Greene, gave testimony on the request, explaining that the manufactured home had never been rented and there were no plans to do so. He explained his intention was to use it as a place for family and friends. Greene shared the family history of the property. Greene explained that it was listed as a future living space on the original plans, and it was only after it was built, and he began to make plans for use a living space that he realized that it exceeded the ADU size requirement. Zedrick commented on references to long-term housing in the Comprehensive Plan. Greene explained that in the future he and his wife intended to occupy the ADU full-time, and the manufactured home would be used for visiting family and friends.

Hassell invited public testimony. No audience members wished to comment.

Greene clarified for Commissioner Johnson that Tran, who submitted testimony, is a neighbor across the street from the property.

The Applicants declined to provide rebuttal to the opposing testimony.

Umholtz commented that the property was not being used as rental and she didn't see any conflict with the Comprehensive Plan with respect to long-term housing.

In response to questions from Commissioners, City Planner Johnson explained that she could only speculate on what transpired when the previous application was processed prior to her joining the city, but it did not appear that ADU size requirements for the future proposed living space were conveyed to the Applicant at that time. There was discussion regarding square footage of the existing and proposed dwellings and City Planner Johnson verified that a variance would be required regardless of which was designated as the primary dwelling.

The Applicant waived the right to submit additional written arguments.

Umholtz made a **motion**, seconded by Johnson, to close the record and the Public Hearing.

The **motion carried** by the following vote:

[Position #1 - Zandra Umholtz: Motion](#)

[Position #4 - Sandra Johnson: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

Zedrick made a **motion**, seconded by Winchester that based on the findings of fact and recommendation presented in the City Staff Report and testimony received, the Planning Commission approve Variance Application Number 24-01 and authorize the Chair to sign an order to that effect.

[Position #7 - Georgeanne Zedrick: Motion](#)

[Position #2 - Stephanie Winchester: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

Hassell declared the Public Hearing was closed at 5:39 p.m.

McNeilly and McGinnis rejoined the meeting at 5:41 p.m.

8. CITIZEN INPUT ON NON-AGENDA ITEMS

Start time: [05:41:51 PM \(00:41:34\)](#)

No audience members wished to comment.

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS

a. Discussion Regarding Updates to Sign Ordinance

Start time: [05:42:14 PM \(00:41:57\)](#)

City Planner Johnson shared a presentation on the Zoning Ordinance, Section 4.050, Sign Requirements. The presentation outlined administrative issues with this code section and provided suggested updates for consideration, including provisions for non-conforming signs and exemptions for government signs. Staff explained that the City wanted to install new signs at City Hall, Anchor Street and Lake Lytle, which prompted the proposed changes. City Planner Johnson answered

clarifying questions. She explained that staff would prepare a draft ordinance and present it to the Planning Commission for consideration at their next meeting. There was brief discussion regarding sign lighting.

Public comment was received from Jessica Hooker, encouraging additional consideration for “dark skies” language to be incorporated into the ordinance update.

b. Discussion of Business Façade & Community Grant Programs

Start time: [05:55:37 PM \(00:55:20\)](#)

City Planner Johnson made a presentation on the City’s grant programs, outlining the three grants currently offered by the City and eligible projects for each. City Manager Shepard, McNeilly and McGinnis shared some of the challenges that applicants and the City Council currently face with the grant programs and the desire for clear criteria for eligibility, scoring, and compliance. Shepard requested that the Planning Commission start their review with the Community Grant program as it would open to the public first. City Planner Johnson shared an example of a grant scoring matrix for consideration. Shepard explained how each grant program is funded and reporting requirements. There was discussion regarding the various grants and criteria. Staff answered clarifying questions. Lanyon advocated for keeping the Façade Grant separate due to the magnitude of it, and expressed a desire for making equitable, informed decisions. McGinnis suggested grant training recommendations could be considered. Shepard explained staff will prepare rough draft beginning with the Community Grant for review.

11. PLANNING COMMISSION COMMENTS & CONCERNS

Start time: [06:35:54 PM \(01:35:37\)](#)

Lanyon expressed appreciation for the Anchor Street parking lot improvements and pedestrian crossings at the Wayside. She advocated for applying for a grant for mobi-mats, temporary mats to improve mobility. Lanyon inquired about updates to the bicycling ordinance, and McGinnis explained it was discussed, but the Council hadn’t yet made any decision.

Commissioner Johnson commented on an email received from a citizen regarding bike racks. She reported that she attended an informational walk regarding the planned Salmonberry Trail, and information about future walks could be found on the Salmonberry Trail website. Johnson mentioned that there would be a SOLVE cleanup on Earth Day.

Umholtz concurred with Lanyon regarding appreciation for the playground installation at Anchor Street. Umholtz provided a brief update on the Houseless Action Network and the shelters and resources available.

Hassell inquired about taking down No Access signs. Shepard confirmed it was high on the priority list for Public Works.

McGinnis inquired about grant funding policies. Shepard said he believed that the Community Grant policy had provisions for City Council approval, and the grants administered by Tillamook Coast Visitors Association required Council approval. Umholtz commented that adding the Planning

Commission as a third party to review applications and then make recommendations to the City Council was a good idea and would eliminate any perception of personal bias or opinion. Shepard commented on the high volume of business for the City Council and noted that Planning Commission help might be appreciated.

12. ADJOURNMENT

Start time: [06:47:12 PM \(01:46:55\)](#)

Johnson made a **motion**, seconded Umholtz, to adjourn the meeting at 6:47 p.m.

The **motion carried** by the following vote:

[Position #4 - Sandra Johnson: Motion](#)

[Position #1 - Zandra Umholtz: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

MINUTES APPROVED THE
16TH DAY OF MAY 2024

William Hassell, President

ATTEST

Melissa Thompson, City Recorder



CITY OF ROCKAWAY BEACH

Notice of Public Hearing for Variance #24-2

NOTICE IS HEREBY GIVEN that the City of Rockaway Beach Planning Commission will hold a public hearing on **Thursday, May 16th at 5:00 p.m.** in City Hall located at 276 S. Highway 101, Rockaway Beach, Oregon. The purpose of the public hearing is for:

Public Hearing: Consideration of an approval for a variance at 101 S. Miller Street in Rockaway Beach (Tillamook County Assessor's Map # 2N1032CC Lot #9600). The Applicants, Debra Reeves and Bryce Zehrung, are seeking a variance to decrease the number of required parking spaces to construct a new mixed-use building. The Applicants plan to construct a new building consisting of a commercial space on the ground floor, two residential units on the second floor, and a single residential unit on the third floor. The Applicants are requesting a decrease in the number of required off-street parking spaces from 6 to 2. The proposed mixed-use building would share the lot with pre-existing mixed-use building. The lot is located in the Commercial Zone and is approximately 4,978 square feet.

Oral public testimony will be heard and written public comments will be accepted at or prior to the hearing. If submitting comments prior to the hearing, deliver to the City Hall at the address given above, or mail to Planning Department at P.O. Box 5, Rockaway Beach, OR 97136. Please use file number Variance #24-2 on written comments, and include your name, mailing address, and phone number. A staff report will be prepared not less than seven days prior to the hearing for review at City Hall. Hard copies will be available upon request to the City free of cost. All other documents and evidence related to this land use action shall be incorporated into an Official Record and made available for review at City Hall upon request.

Failure to raise an issue in person, in writing at or prior to the close of the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission and other interested parties an opportunity to respond to the issue constitutes forfeiture of the right to appeal the decision of the Planning Commission. Failure to specify as to which criteria the comments are directed precludes an appeal based on that criterion.

Use Criteria: Use criteria for this proposal include Rockaway Beach Zoning Ordinance, Section 8.020. Variance Review Criteria.

Responsible Official: Mary Johnson
City Planner
(503) 374-1752
cityplanner@corb.us

VARIANCE APPLICATION

No. 2024-02

Applicants: Debra Reeves and Bryce Zehrung

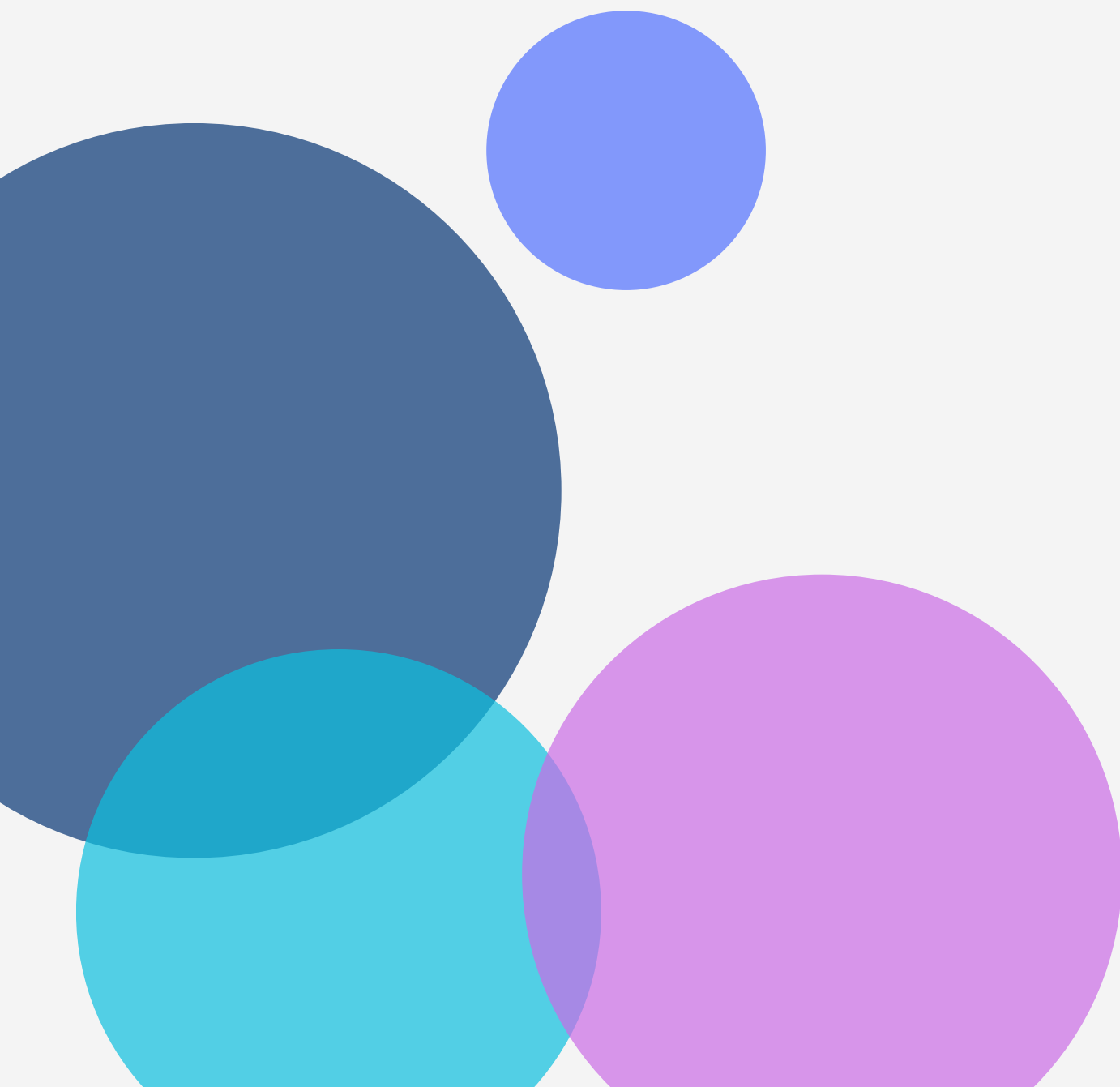
Location: 101 South Miller Street



STAFF REPORT

- Property Information
- Applicant's Request
- Images & Maps
- Public Comment Received
- Criteria for Granting a Variance
- Analysis of Application
- Planning Commission Action

PROPERTY INFORMATION



Property Location

The property is located at 101 South Miller Street in Rockaway Beach and is further identified on Tillamook County Assessor's Map # 2N1032CC Lot #9600.

Lot Size

Approximately 4,987 square feet.

Zoning Designation

C1 (Commercial Zoning)

Surrounding Land Use

The subject property is surrounded by mixed-use property to the South, commercial property to the West, the railroad and Highway 101 to the East, and the wayside public parking lot to the North.

Existing Structures

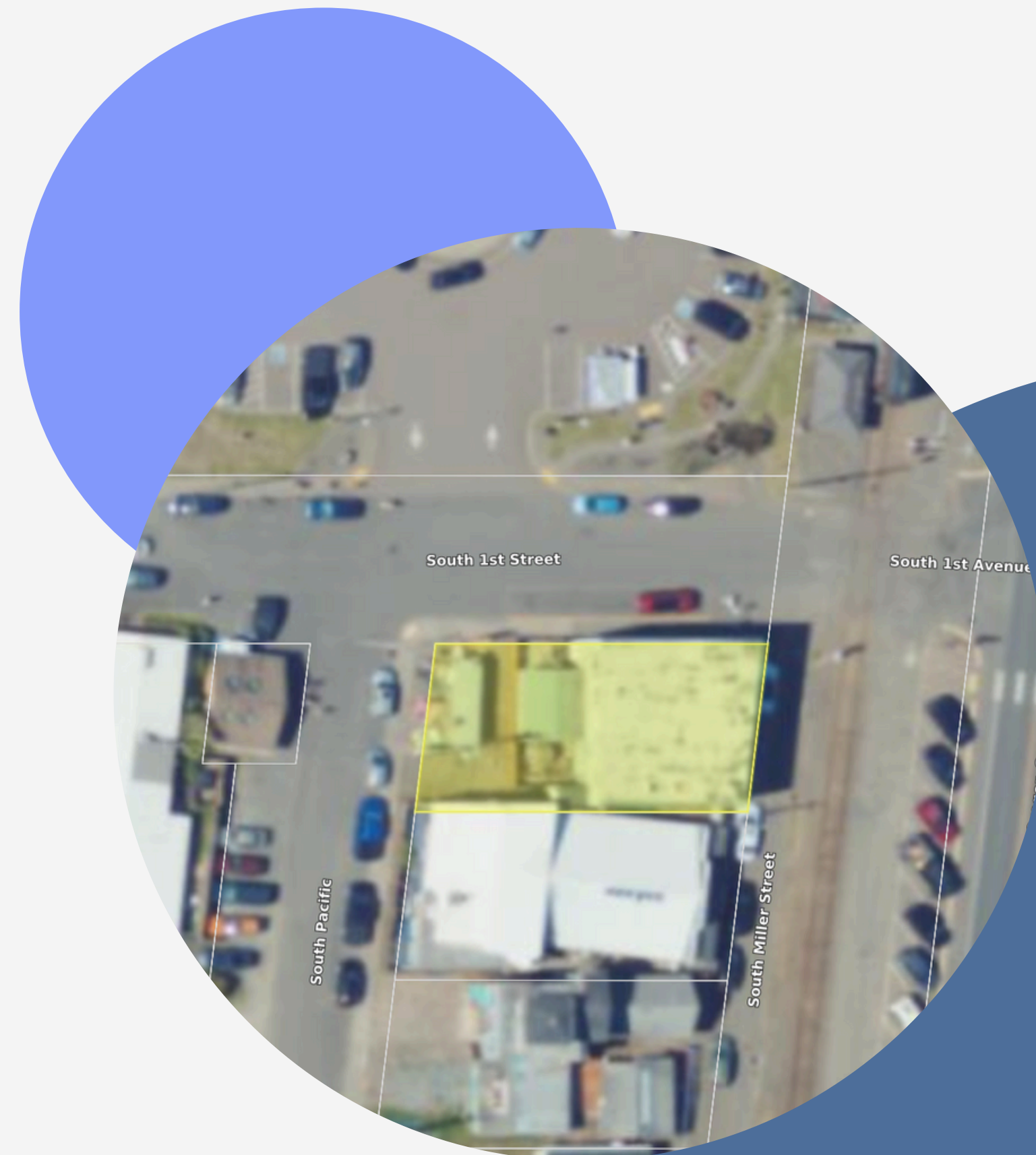
There is a two-story mixed-use building on this property that was constructed in 1920.

Development Constraints

None that will impact this request.

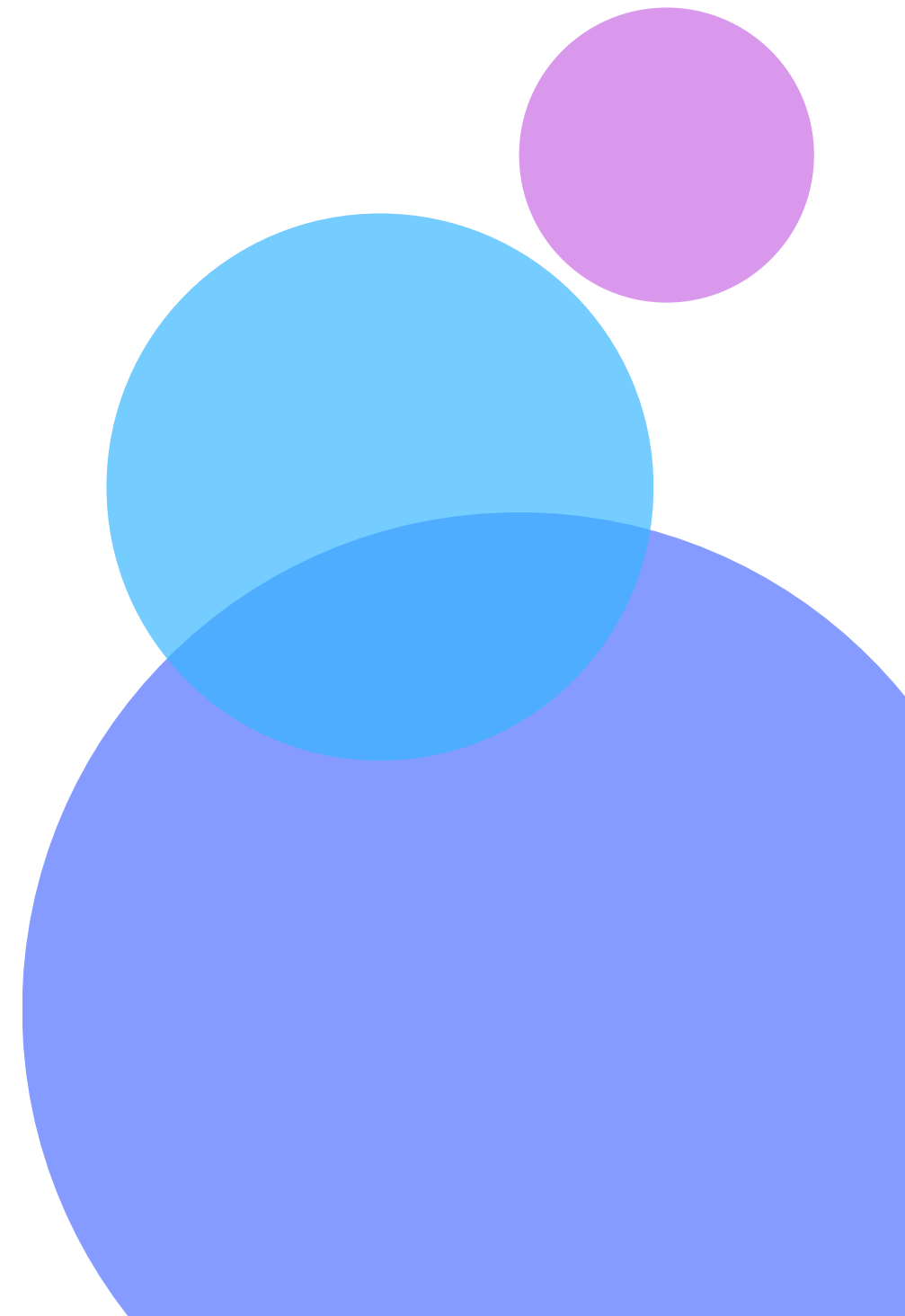
APPLICANT'S REQUEST

- The Applicants are requesting a variance to reduce the number of required parking spaces for their proposed mixed-use building from six parking spaces to two. The Applicants seek to construct three story mixed-use building which would consist of commercial space on the bottom floor, two dwelling units on the second floor, and a third dwelling unit on the third floor. No parking is required for the commercial space. Two parking spaces are required for each of the dwelling units.
- The subject property currently has a two-story mixed-use building that was constructed in 1920.



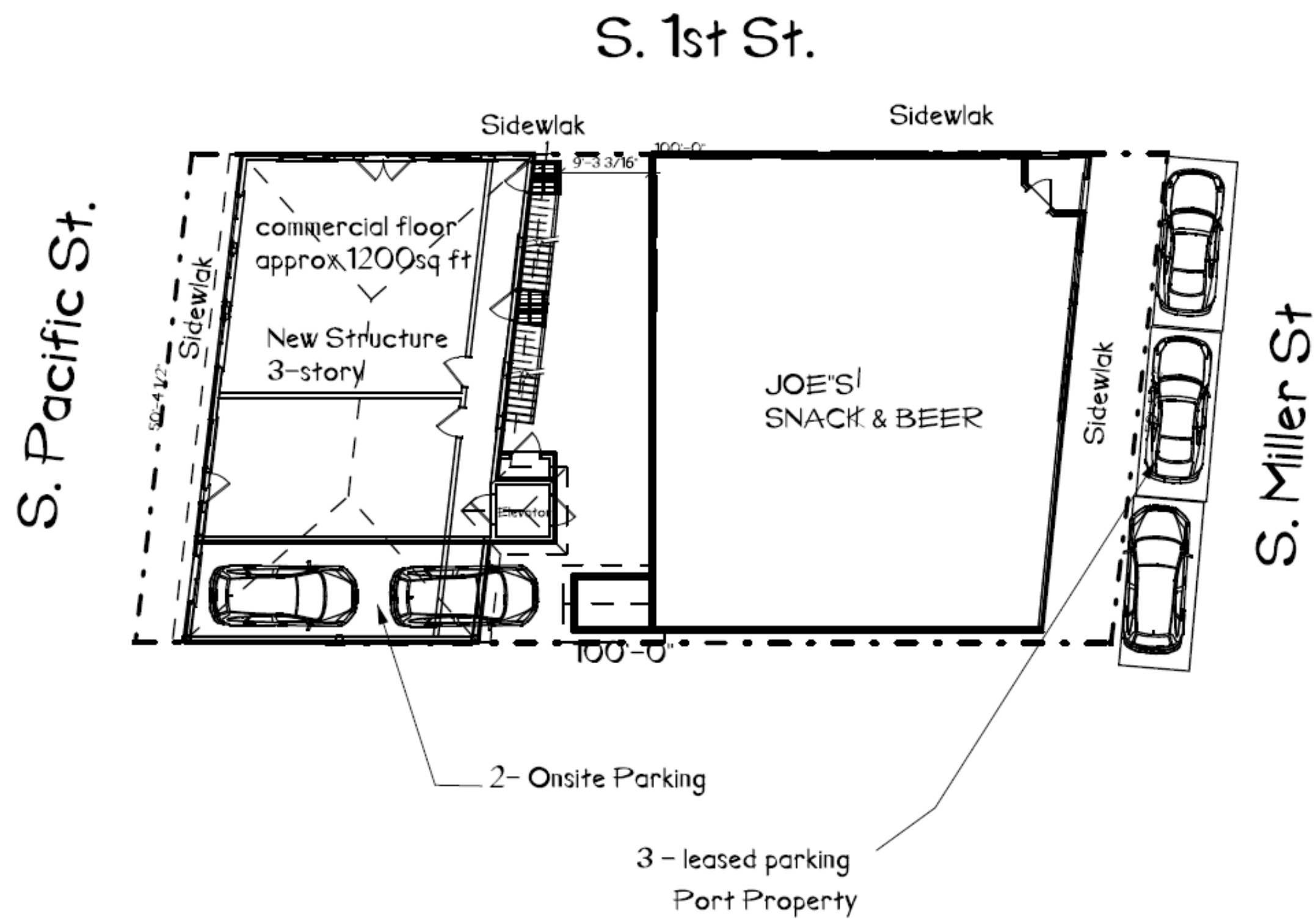


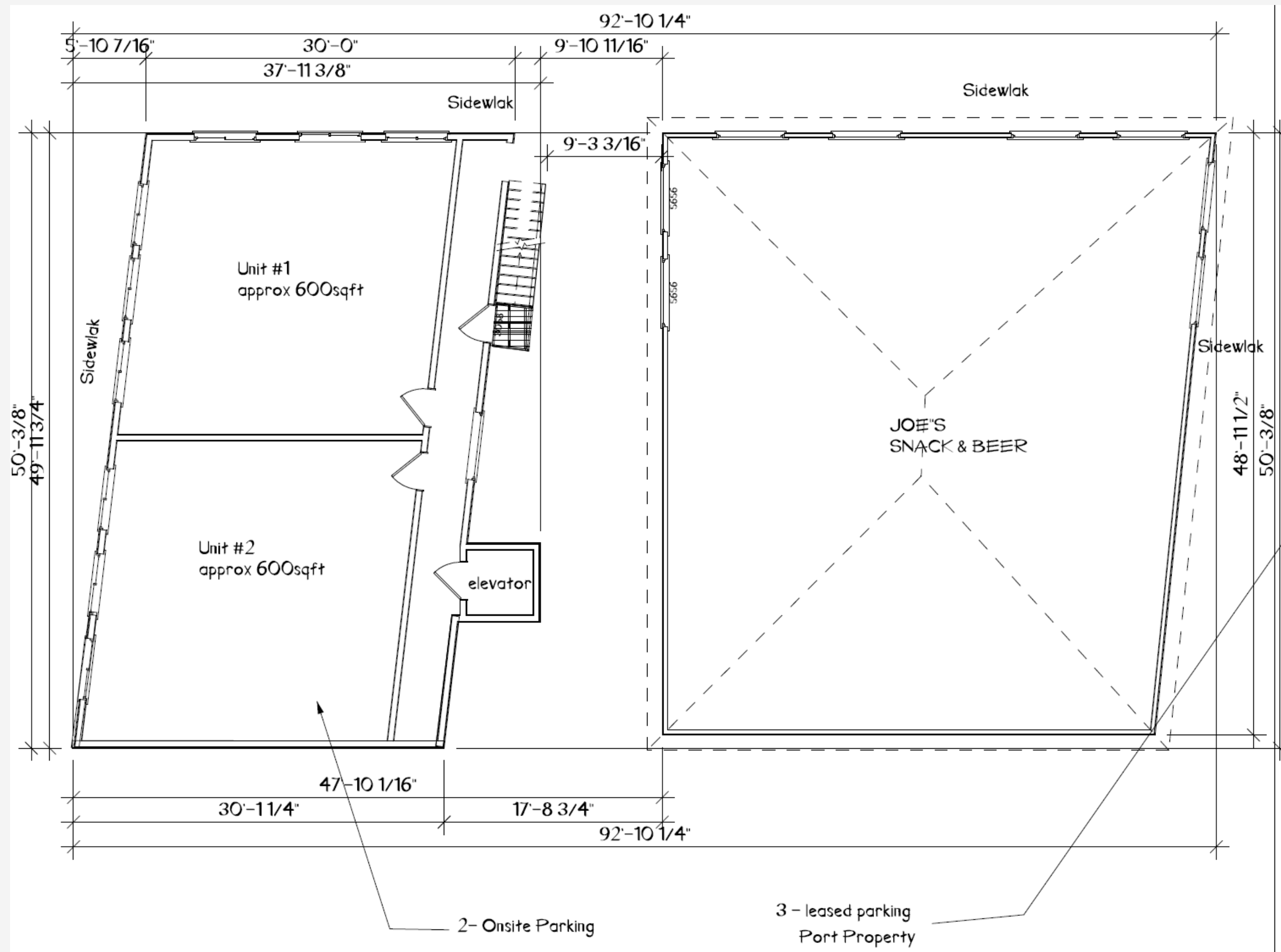


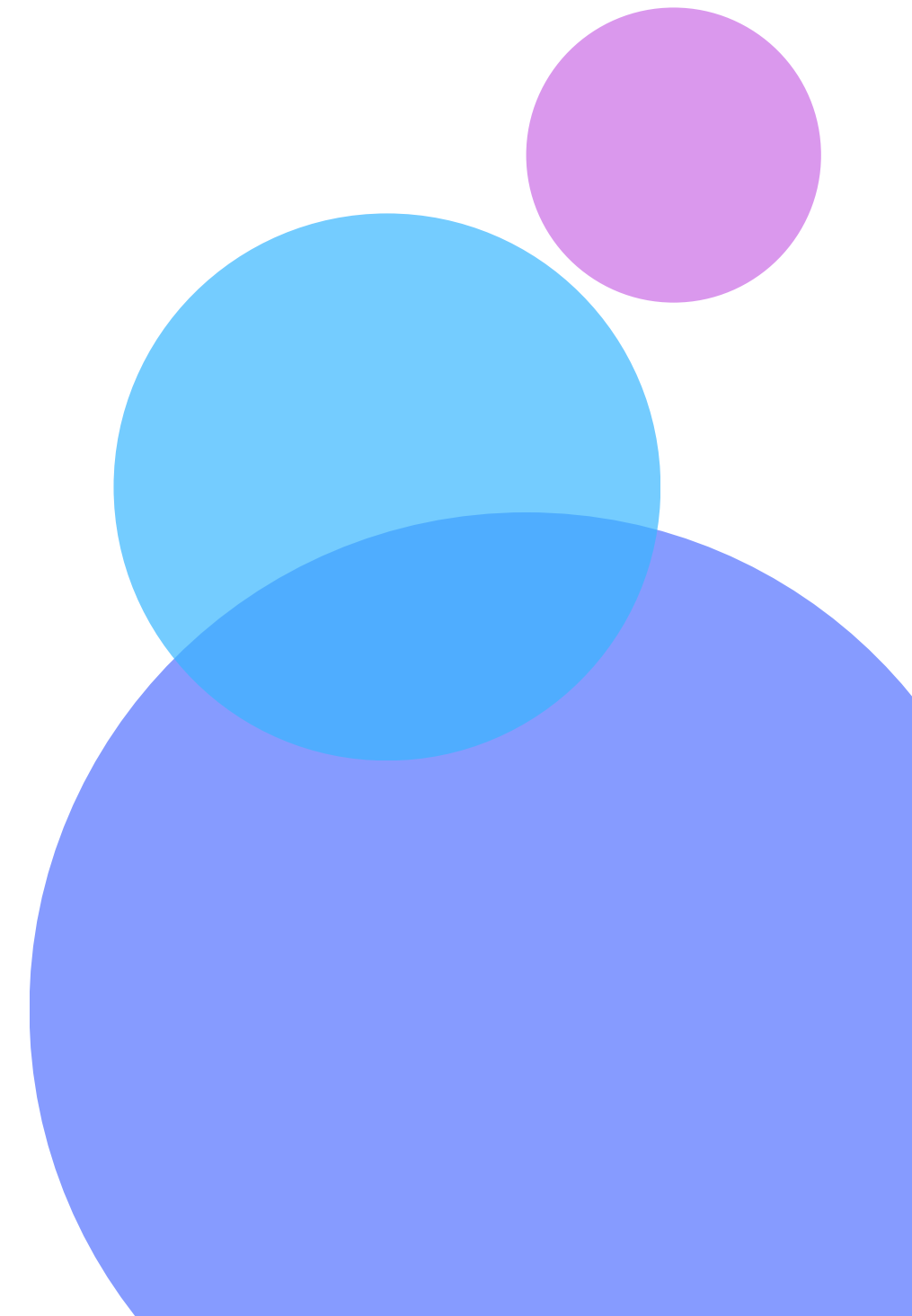
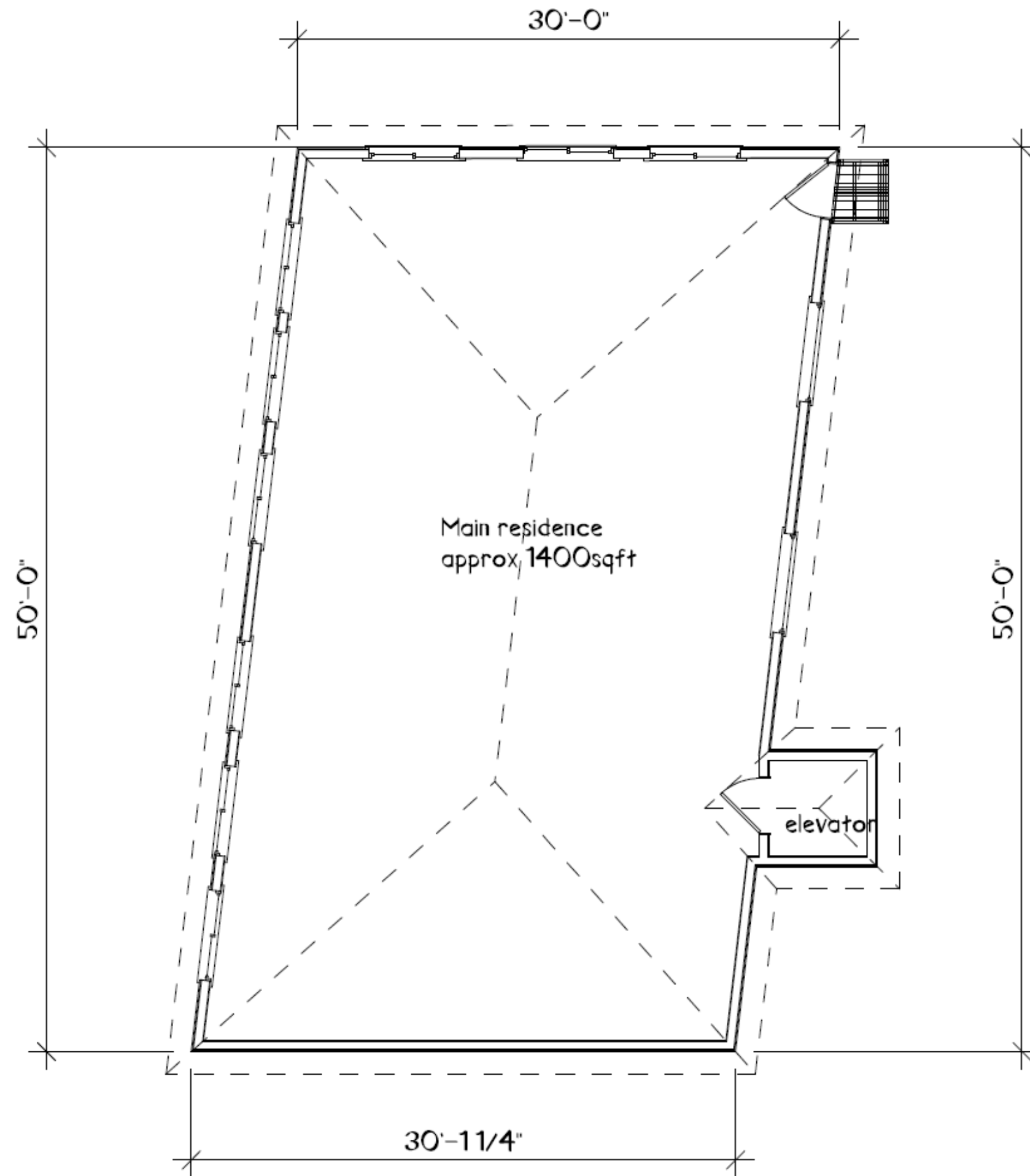












**PUBLIC
COMMENT
RECEIVED**

Testimony Opposed to the Application

- Elizabeth Vermeulen and Alice Pyne
- Carolyn Walters

Testimony in Support of the Application

- None

CRITERIA FOR GRANTING A VARIANCE

Variances to requirements of this chapter with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings are made:

- That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter;
- That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets;
- That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter.

ANAYLSIS OF APPLICATION

That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter;

Applicant states that granting this variance request would not impact current or future traffic volumes generated using the site or sites in the vicinity. The Applicant continued that the additional three leased parking spaces on Miller compensate for the lack of onsite parking. This leased space is currently used as parking spaces and do not, and will not, impede or modify current traffic and loading in the area.

Staff generally agree with the Applicant's assessment. However, Staff note the Miller Street lease may be cancelled at any time. Additionally, Staff acknowledge that granting the variance may lead to parking congestion in the area.



ANAYLSIS OF APPLICATION

That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.

The Applicants state that the leased parking spaces are currently used for and historically have been used as loading and unloading for the laundromat. Approval for the variance will not change the parking habits in the area or interfere with the free flow of traffic.

The Applicants have entered into a lease for three parking spaces on Miller, to make up for the lack of off-street parking available. The Applicant's state that this leased parking on Miller is current used for and historically has been used for loading and unloading for the laundromat. Staff question where these customers will now load and unload to use the Appliant's establishment and if they will choose to impede the free flow of traffic by loading and unloading on the street, since no on-street parking is available in front.

ANAYLSIS OF APPLICATION

That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter.

The Applicant states that the granting of this variance would not create a safety hazard or other conditions inconsistent with this chapter.

Staff concur with the Applicant, that the granting of the variance would not create a safety hazard.

PLANNING COMMISSION ACTION



If, after hearing the evidence at the hearing, the Planning Commission agrees that sufficient facts exist to grant the variance, they should direct staff to write findings based on the evidence to permit the variance.

If they do not find that sufficient evidence exists to allow the variance, they should direct staff to write findings for denial of the variance.

City of Rockaway Beach, Oregon
276 S. Highway 101, PO Box 5
Rockaway Beach, OR 97136
(503) 374-1752 FAX (503) 374-0601
www.corb.us • cityplanner@corb.us



VARIANCE APPLICATION

(# __ - __)

Non-Refundable Fee \$880.00

Property Owner(s) Name: Debra Reeves & Bryce Zehrung

Full Mailing Address: [REDACTED] Rockaway Beach, Oregon 97136

Email: [REDACTED] Phone Number: _____

Location Information:

Situs Address: 101 S Miller St AND/OR Map/Tax Lot: 2N1032-CC-09600

Zoning: C-1

Description of Request: Request for reduction of off-street parking. 6 required, asking for reduction of 4.

Justification of variance request. Explain how the request meets each of the following criteria for granting a variance per Rockaway Beach Zoning Ordinance# 143, as amended, Article 8, Variances, Section 8.020, Criteria

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be consistent with the objectives of the Comprehensive Plan.
See attached

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.

See attached

3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the near vicinity.

See attached

4. That the granting of the variance would support policies contained within the Comprehensive Plan.

See attached

Note: Use extra sheets or documents, if necessary, for answering the above questions.

Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure and dimensions of proposed development.

I hereby certify that the above information is correct and understand that issuance of a permit based on this application will not excuse me from complying with effective Ordinances and Resolutions of the City of Rockaway Beach and Statutes of Oregon, despite any errors on the part of the issuing authority in this application.

Property Owner Signature: Rodney Breazile Date: 3-22-24
General Contractor, Owner Representative

OFFICE USE ONLY

Fee \$ 880.00 Date Received: _____ Receipt # _____ By: _____

Notes: _____

Notice Published: _____ Public Hearing Date: _____

Variance ☐ Granted ☐ Denied Date of Order: _____ Final Date to Appeal: _____ t _____

Planning approved by: _____ Date of Order: _____

Variance Process and Considerations

- The Variance process typically takes five (5) to six (8) weeks.
- The process requires a public hearing before the Planning Commission & advance notice in the local paper and adjoining property owners.
- The City of Rockaway must receive application, fee and all required information 30 days prior to the next hearing date. Planning Commission Meetings are held the 3rd Thursday of each Month.
- The Applicant is encouraged to attend the public hearing.
- Variance is granted for a specific item and is the only detail to be considered for the specific variance request.
- The burden of proof is on the applicant to show that the request meets the criteria.
- The power to grant variances does not extend to use regulations, it relates specifically to standards.
- A variance must be exercised within one (1) year.
- Approvals are based on the plan(s) submitted.
- A diagram of the request is necessary for adequate review by staff and Planning Commission members. Please include the following:
 - Lot dimension and shape, and North arrow (see figure below)
 - Adjoining streets by name and center line distances to property.
 - Location of existing and proposed structures and/or alterations.
 - Driveway(s), parking and loading areas and the location of utility easements, if known.
 - Key that identifies information required above - see Site Plan Example Below

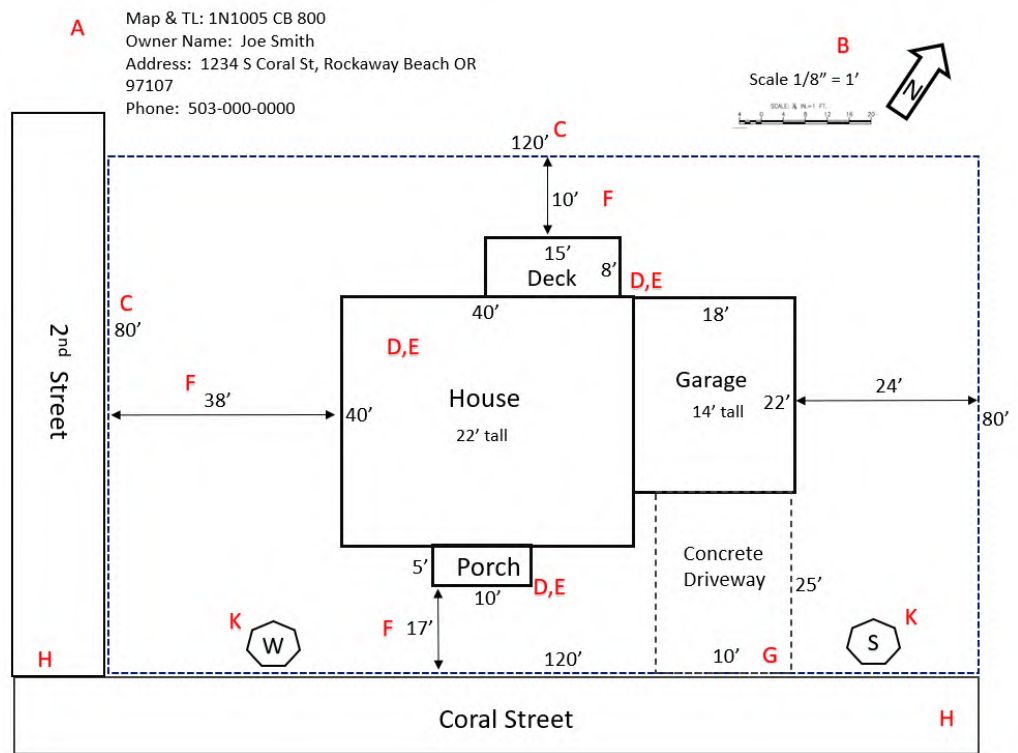
Site Plan Example

The following items **must be** clearly indicated on the site plan:

- A.** Map & TL, Owner info
- B.** Scale & North direction
- C.** Property Lines
- D.** All dimensions
- E.** All structures
- F.** All setbacks
- G.** Access/Driveway
- H.** Streets
- I.** Any noted easements
- J.** Wetland/Streams
- K.** Utility Connections *New
(S – Sewer, W – Water)

*New - New Homes

New home site plans must be to scale, if the listed scale does not work, it will be rejected.



ROCKAWAY BEACH ZONING ORDINANCE

Article 8. Variances

Section 8.010. Purpose.

(1) The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site, or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity or from population densities, street location, or traffic conditions in the immediate vicinity.

(2) The power to grant variances does not extend to use regulations. In other words, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020. Criteria.

(1) Variances to a requirement of this chapter with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation, and evidence submitted by the applicant, that all four expressly written findings are made:

- a) That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the Comprehensive Plan; and
- b) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and
- c) That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity; and
- d) That the granting of the variance would support policies contained within the Comprehensive Plan. Variances in accordance with this subsection should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner.

(2) Variances to requirements of this chapter with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings are made:

- a) That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter.
- b) That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.
- c) That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter.

Where a variance request is being reviewed under Section 8.020(2), only the criteria of Section 8.020(2) shall be addressed. The criteria of Section 8.020(1) are not applicable. [Section 8.020(2) amended by Ordinance #277, August 28, 1990]

Section 8.030. Conditions. Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with. [Added Section 8.040, this section was omitted in blue book]

Section 8.040 Application. Application for a variance in conformance with Section 11.030 shall be filed with the City Recorder on the form prescribed by the City, by any person with a legal interest in the property.

Section 8.050. Variance Review Procedures. The following procedures shall be followed in reviewing a request for a variance:

- (1) Public notice shall be given in accordance with Section 11.040.
- (2) A public hearing shall be held in accordance with Section 11.060.
- (3) A decision on the variance application shall be made in accordance with Section 11.060(6).
- (4) A decision of the planning commission may be appealed to the City Council in accordance with Section 11.070.

[Section 8.050 amended by Ordinance #277, August 28, 1990]

Section 8.080. Compliance With Conditions of Approval. Compliance with conditions of imposed in the variance, 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 chapter.

Section 8.090. Vested Interest in Approved Variances. A valid variance supersedes conflicting provisions of subsequent rezonings or amendments to this chapter unless specifically provided otherwise by the provisions of this section or in the conditions of approval of the variance.

Section 8.100. Revocation. Variances shall be automatically revoked if not exercised within one year of the date of approval.

Section 8.110. Limitation on Refiling of Application. Applications for which a substantially similar application has been denied shall be heard by the Planning Commission only after a period of six months has elapsed.

Section 8.120. Time Limit for an Approved Variance. The variance shall be null and void after one year, unless substantial construction has taken place.

REEVES/ZEHRUNG

VARIANCE

Description of Request: The property is newly owned and operated as Joe's Snacks & Beer. The request is for a reduction of off-street parking from 6 required, resulting in 2 off-street parking reflected in the drawings.

The Owner has secured a lease agreement for three (3) off-street parking spots on Miller Street through the Port of Tillamook Bay. The parking spots share a property line with the Owner's lot; a small portion of these leased spots overlap with the Owner's property. There will be 2 (two) on-site parking spots near S. Pacific Street on said property.

The Owners would like to construct a new structure on the West side of the property. The structure would consist of the main floor for commercial use, the second (2nd) floor as 2 (two) 600 square foot residential units, and the third (3rd) floor as 1 (one) residential unit. The Owners are requesting a reduction of 4 (four) off-street parking spots, resulting in 2 (two) off-street parking (5 spots total, including the three leased spots) that are less than 70 feet from the structure. No commercial parking is required between South 2nd and North 3rd in Rockaway Beach.

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty of unnecessary hardship and would be consistent with the objectives of the Comprehensive Plan.

The existing property was developed in 1920, prior to the creation of the comprehensive plan; the requirements for off-street parking were not required or enforced in the downtown corridor area, as seen by the older and existing commercial buildings with living above.

Hardship: The property was developed prior to the creation of the comprehensive plan and any off-street parking requirements. The existing structure with two living units above has had no documented adverse effects on the community without the off-street parking. However, due to previous development, the property is not large enough to accommodate parking.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.

The property was developed and built before the comprehensive plan and parking requirements. Requiring two off-street parking spaces per unit in an area that had yet to require this upon development makes it extraordinarily difficult to develop the remaining 50% of the property and provide needed housing and commercial space in Rockaway Beach. The public sidewalk imposed on the property absorbs a total of 600 sq ft of useable space from the Owner's lot; 350 sq ft of sidewalk on Miller Street, and 250 sq ft on Pacific Street. This area prior would have supplied enough room for nearly 6 off-street parking spaces.

3. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

The granting of the Variance would maintain the safety concerns of the adjacent structures on each side of the new structure. It will be consistent with the area's uses and protect the adjacent

REEVES/ZEHRUNG

VARIANCE

properties. The Owner intends to reside in the new structure full-time. The building known as Joe's Snacks and Beer has always utilized the upstairs as residential and the lower portion for commercial space. This has been the case since its development, and throughout its use as a post office, a photo studio, a barber shop, a collector's store, and a realtor's office. Developing the remaining space in the same regard will not only elevate Rockaway's historic downtown corridor but create new opportunities for businesses and reflect the planning commission's earlier and current goals of commercial below and living above.

4. That the granting of the variance would support policies contained within the Comprehensive Plan.

The Variance aligns with the **Comprehensive Plan** and the application **criteria** for the reduced parking request. There are existing structures within the same block and adjacent blocks that do not fulfill the required off-street parking for residential units above commercial use. This is a common occurrence in many areas throughout the downtown corridor.

Supporting language from the Comprehensive Plan:

- a. *Planning process #7 (c) The land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant considerations.*
- b. *Planning process #7 (e) The amendment is compatible with the land use development pattern in the vicinity of the request. [Planning Process Policy 7, amended by Ord. 277, Aug. 29, 1990.]*
- c. *Planning process #8 (d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impact.*

Economic Considerations

- d. *The state-wide economic planning goal encourages “improvement” and “diversity” of the economy of the state. The economic base of Rockaway Beach is tourism and has historically been so. Whereas neighboring communities rely on agriculture, forestry, fishing, or port activities for their livelihood, Rockaway Beach's lakes and Pacific beach have provided the city with a specific economy. Without a harbor, farmland or industry other than recreation, Rockaway Beach shares with the cities of Lincoln City, Seaside, and Cannon Beach the tourist trade of the Northern Oregon Coast. People come to Rockaway Beach to fish, to walk on the beach, to “get away from it all”. Rockaway Beach is primarily a family resort, with inexpensive room-rates and unsophisticated recreation. [Economic considerations, amended by Ord. 277, Aug. 29, 1990.]*
- e. *In 2007, Rockaway Beach had less than four acres of buildable commercial land remaining within the urban growth boundary. Therefore, the city needs to designate approximately four additional acres for commercial use. To address this unmet need, Rockaway Beach needs to re-designate land for commercial use East of Highway 101, encourage appropriate redevelopment of existing commercial areas, and require condominium developments in commercial areas to construct ground floor commercial space. (Urbanization Study, p. 6-5)*

REEVES/ZEHRUNG

VARIANCE

Policies Relating to the Economy

- f. #11 *The City recognizes that its retirement community represents an important element of the economy. The city will cooperate with community groups on making community improvements that will enhance the City's attractiveness as a retirement community. Particular attention should be given to enhancing the medical facilities available in the region. Joe's Snacks and Beers currently serves as a popular location for the local retired community to meet and socialize.*

Energy Considerations & Air Quality

- a. #4 *Enforcement of the building code also serves to conserve energy. The insulation requirements for new construction reduce energy consumption for heating and cooling.*
- b. *Air quality has never been a problem in the Rockaway Beach area due to a small population and its proximity to the Ocean. The major source of air pollution is the automobile.*
- c. *Cluster development is to be encouraged, thus saving energy in construction, maintenance and heating.*
- d. *Land use planning designed to maintain an identifiable downtown commercial core saves energy by concentrating activity and by encouraging foot traffic rather than driving.*
- e. *Development of vacant land within the urbanized area of Rockaway Beach before the development of un-urbanizable tracts is also encouraged for its energy savings.*

Physical limitations

The natural attractions in the Rockaway Beach area have traditionally drawn people to the area; the beaches, bays, rivers, lakes, and mountains appeal to residents and visitors alike; that appeal translates into a demand for land. Quite naturally, the most desirable land was developed first – primarily that on the ocean front. Development then spread to other areas physically suited to buildings, until now. Rockaway Beach is faced with a very straightforward problem: most undeveloped land in the area suffers substantial physical limitations to building suitability.

Compressible soil, poor drainage, pre-existing conditions, and landslide hazards are some of the special construction problems often facing today's builder in Rockaway Beach.

Policies Relating to the Economy

- a. *To meet commercial retail and service land needs the city should:*
- a. *Amend the Comprehensive Plan and Zoning maps to increase the supply of commercial land by approximately four acres.*
- b. *Encourage commercial redevelopment of existing commercial areas; and*
- c. *Require condominiums in commercially zoned areas to have ground floor commercial space.*

Natural Features

REEVES/ZEHRUNG

VARIANCE

- a. Land use categories are intended to establish certain uses for certain areas based on neighborhood characteristics, physical limitations, the availability of public services such as streets, sewer and water, the desires to build a strong economy and maintain a clean environment, and other factors.

Land Use Categories

- a. Land use categories are intended to establish certain uses for certain areas based on neighborhood characteristics, physical limitations, the availability of public services such as streets, sewer and water, the desires to build a strong economy and maintain a clean environment, and other factors.

The Downtown Commercial Area

- a. The plan supports the location of housing in this commercial area, particularly in conjunction with businesses. Where new residential uses are allowed in the Downtown Commercial Area, ground floor retail uses should be required. This is common with many of the businesses that are presently there and should continue.
- b. Uses allowed in the downtown core area should be those that predominate there now: primary retail and service commercial activities.
- c. It is the intention of the plan to support the economy of Rockaway by maintaining scarce ocean front commercial property for commercial purposes, and to maintain an identifiable downtown commercial core.

Comprehensive Plan Review and Update

In 2007, the City contracted with ECO Northwest to prepare the Rockaway Beach Urbanization Study (Urbanization Study). The Urbanization Study is a background document to the comprehensive plan. Key findings from this study include the following:

- *Rockaway Beach is expected to grow from 1,394 year-round residents in 2007 to 1,709 residents in 2027, an increase of 315 residents at an average Rockaway Beach Comprehensive Plan 3 annual rate of 1.02%. The numbers are based on forecasts done by the State Office of Economic Analysis for Counties. They are, at best, estimates and may not have any basis in terms of actual trends. The City of Rockaway Beach should review these numbers every five years, and if there is a considerable discrepancy, initiate a process with the county to potentially reallocate. Since the number of vacation homes is disproportionate to the number of homes occupied by permanent residents and since tourism is the only industry of Rockaway Beach, it is vital that higher numbers be factored into public facility planning, utilizing the best available information. Employment is expected to grow from 342 jobs to 419 jobs, an increase of 77 jobs at an average annual rate of 1.02%.*
- *Rockaway Beach has about 162 buildable acres within the UGB. More than 96% of the land available in the Rockaway Beach UGB is zoned for residential uses. • Rockaway Beach will need about 160 new dwelling units to accommodate planned population*

REEVES/ZEHRUNG

VARIANCE

growth between 2007 and 2027. The forecast shows that an average of eight new dwelling units will be needed annually. Rockaway Beach will need about 24 gross buildable residential acres to accommodate new housing for residents between 2007 and 2027. This forecast does review both a low and a high scenario for the demand for second homes for recreational and investment purposes. The Buildable Lands Inventory indicates that the city has a surplus of approximately 57 residential acres.

Density calculations shall not prevent Owners of individual lots of record (prior to the adoption of the plan) from building on their property if their lots are substandard in size. The City currently allows construction on lots of less than 3,500 square feet unless the Owner has contiguous property. The plan recognizes the ability of Owners to build on small lots (therefore at higher densities) where this situation exists.

In closing,

We believe the variance request of a reduction of 4 (four) off-street parking meets the criteria and is in support of the Comprehensive Plan.

On behalf of the Owners, thank you for your time and consideration.

REEVES/ ZEHRUNG**VARIANCE**

Description of Request: The property is newly owned and operated as Joe's Snacks & Beer. The request is for a reduction of off-street parking from 6 required, resulting in 2 off-street parking reflected in the drawings.

The Owner has secured a lease agreement for three (3) off-street parking spots on Miller Street through the Port of Tillamook Bay. The parking spots share a property line with the Owner's lot. There will be 2 (two) on-site parking spots near S. Pacific Street on said property.

The Owners would like to construct a new structure on the West side of the property. The structure would consist of the main floor for commercial use, the second (2nd) floor as 2 (two) 600 square foot residential units, and the third (3rd) floor as 1 (one) residential unit. The Owners are requesting a reduction of 4 (four) off-street parking spots, resulting in 2 (two) off-street parking (5 spots total, including the three leased spots) that are less than 70 feet from the structure. No commercial parking is required between South 2nd and North 3rd in Rockaway Beach.

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty of unnecessary hardship and would be consistent with the objectives of the Comprehensive Plan.

The existing property was developed in 1920, prior to the creation of the comprehensive plan; the requirements for off-street parking were not required or enforced in the downtown corridor area, as seen by the older and existing commercial buildings with living above. The City of Rockaway Beach does not require parking for commercial buildings from S. 2nd Street to N. 3rd Street.

Hardship: The property was developed prior to the creation of the comprehensive plan and any off-street parking requirements. The existing structure with two living units above has had no documented adverse effects on the community without the off-street parking. However, due to previous development, the property is not large enough to accommodate parking.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.

The property was developed and built before the comprehensive plan and parking requirements. Requiring two off-street parking spaces per unit in an area that had yet to require this upon development makes it extraordinarily difficult to develop the remaining 50% of the property and provide needed housing and commercial space in Rockaway Beach.

3. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

The granting of the Variance would maintain the safety concerns of the adjacent structures on each side of the new structure. It will be consistent with the area's uses and protect the adjacent properties. The Owner intends to reside in the new structure full-time. The building known as Joe's Snacks and Beer has always utilized the upstairs as residential and the lower portion for

REEVES/ ZEHRUNG

VARIANCE

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The Variance aligns with the **Comprehensive Plan** and the application **criteria** for the reduced parking request. There are existing structures within the same block and adjacent blocks that do not fulfill the required off-street parking for residential units above commercial use. This is a common occurrence in many areas throughout the downtown corridor.

Supporting language from the Comprehensive Plan:

- a. *Planning process #7 (c) The land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant considerations.*
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- d. *The state-wide economic planning goal encourages “improvement” and “diversity” of the economy of the state. The economic base of Rockaway Beach is tourism and has historically been so. Whereas neighboring communities rely on agriculture, forestry, fishing, or port activities for their livelihood, Rockaway Beach's lakes and Pacific beach have provided the city with a specific economy. Without a harbor, farmland or industry other than recreation, Rockaway Beach shares with the cities of Lincoln City, Seaside, and Cannon Beach the tourist trade of the Northern Oregon Coast. People come to Rockaway Beach to fish, to walk on the beach, to “get away from it all”. Rockaway Beach is primarily a family resort, with inexpensive room-rates and unsophisticated recreation. [Economic considerations, amended by Ord. 277, Aug. 29, 1990.]*
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Policies Relating to the Economy

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Natural Features

REEVES/ ZEHRUNG**VARIANCE**

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REEVES/ ZEHRUNG**VARIANCE**

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Density calculations shall not prevent Owners of individual lots of record (prior to the adoption of the plan) from building on their property if their lots are substandard in size. The City currently allows construction on lots of less than 3,500 square feet unless the Owner has contiguous property. The plan recognizes the ability of Owners to build on small lots (therefore at higher densities) where this situation exists.

In closing,

To clarify, with the addition of three leased parking spaces and two on-site parking spaces, ultimately, approval of the variance application would still result in 5 parking spaces to serve the new commercial/residential build.

We believe that the request for a variance of reduction of 4 (four) off-street parking meets the criteria and is in support of the Comprehensive Plan.

On behalf of the Owners, thank you for your time and consideration.

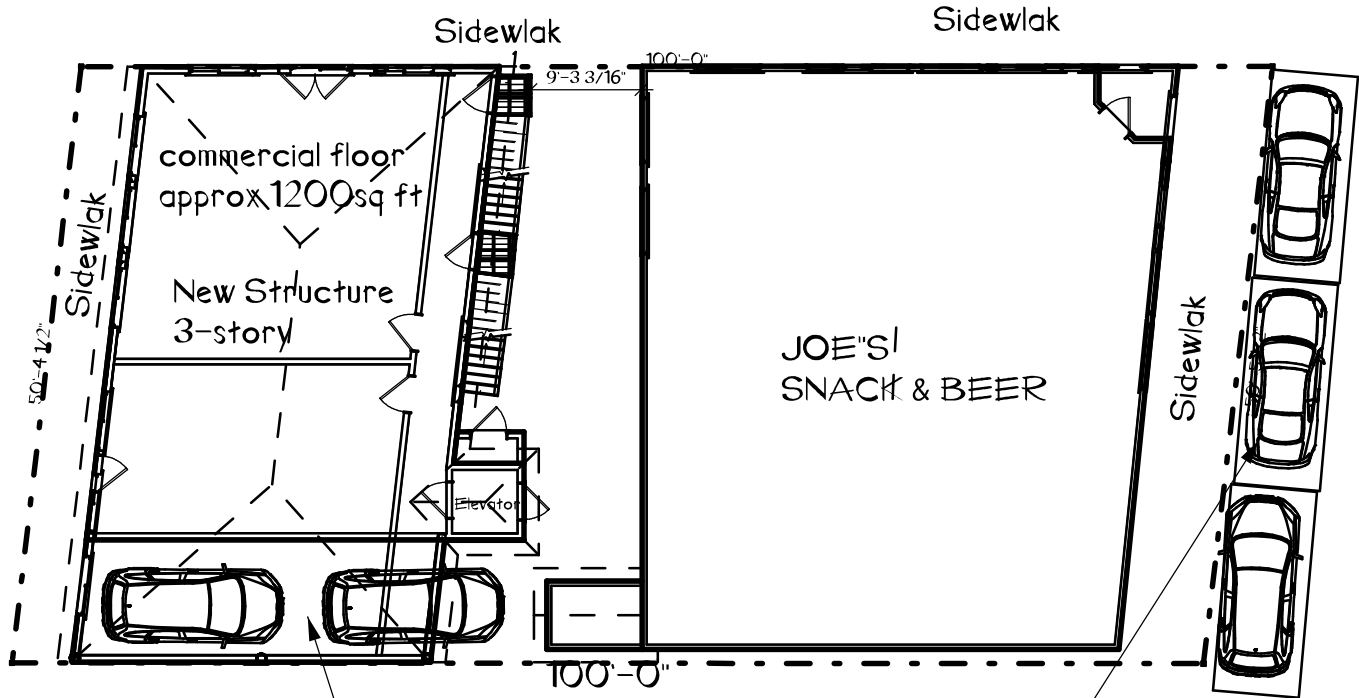
Follow up 5/1/2024

1. Approval of this variance **would not** impact current or future traffic volumes generated using the site and sites in the vicinity. **The additional three leased parking spaces on Miller Street** to compensate for the lack of onsite parking are currently used as parking spaces and currently do not, and will not impede or modify current traffic and loading in the area.
2. In the past, and currently, these leased parking spaces have been used for decades as loading and unloading for the laundromat on the premises. Approval of the variance **will not change** the habits of the parking in the area or create interference for the free flow of traffic.
3. Approval of this variance **would not create a safety hazard** or other conditions inconsistent with section 8.020(2). Additionally, commercial zoning does not require off-street parking in this boundary.



S. Pacific St.

S. 1st St.



2- Onsite Parking

3 - leased parking
Port Property

GENERAL NOTES

No.	REVISION/ISSUE	DATE

ORIENTATION	STAMP

ALL DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.
CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE DESIGNER.

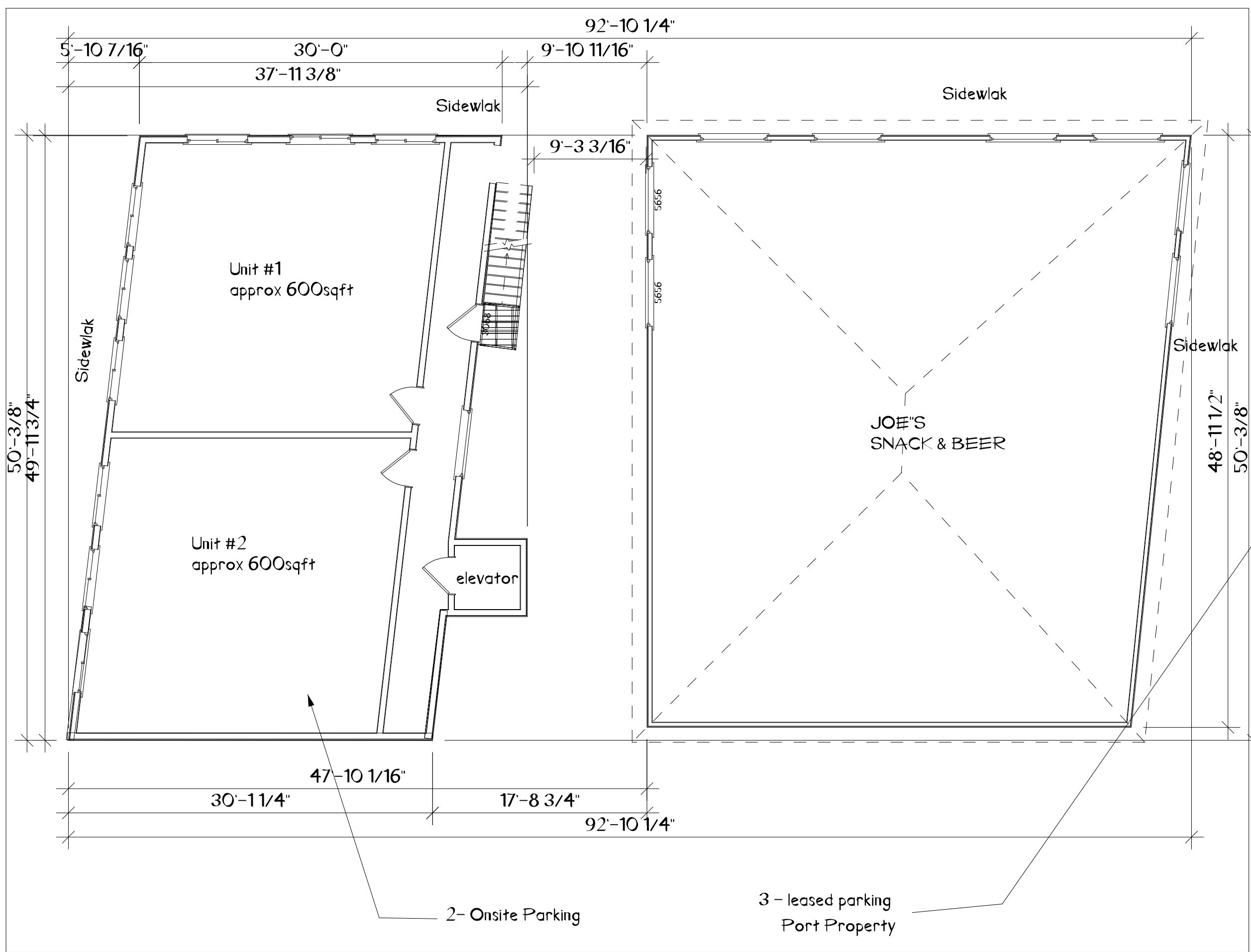
PROJECT NAME:
Reeves

CLIENT:

DRAWING:

SCALE: DATE:

DRAWN BY:	SHEET: PLOT
CHECKED BY:	
APPROVED BY:	



GENERAL NOTES		
No.	REVISION/ISSUE	DATE

ORIENTATION	STAMP

ALL DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.
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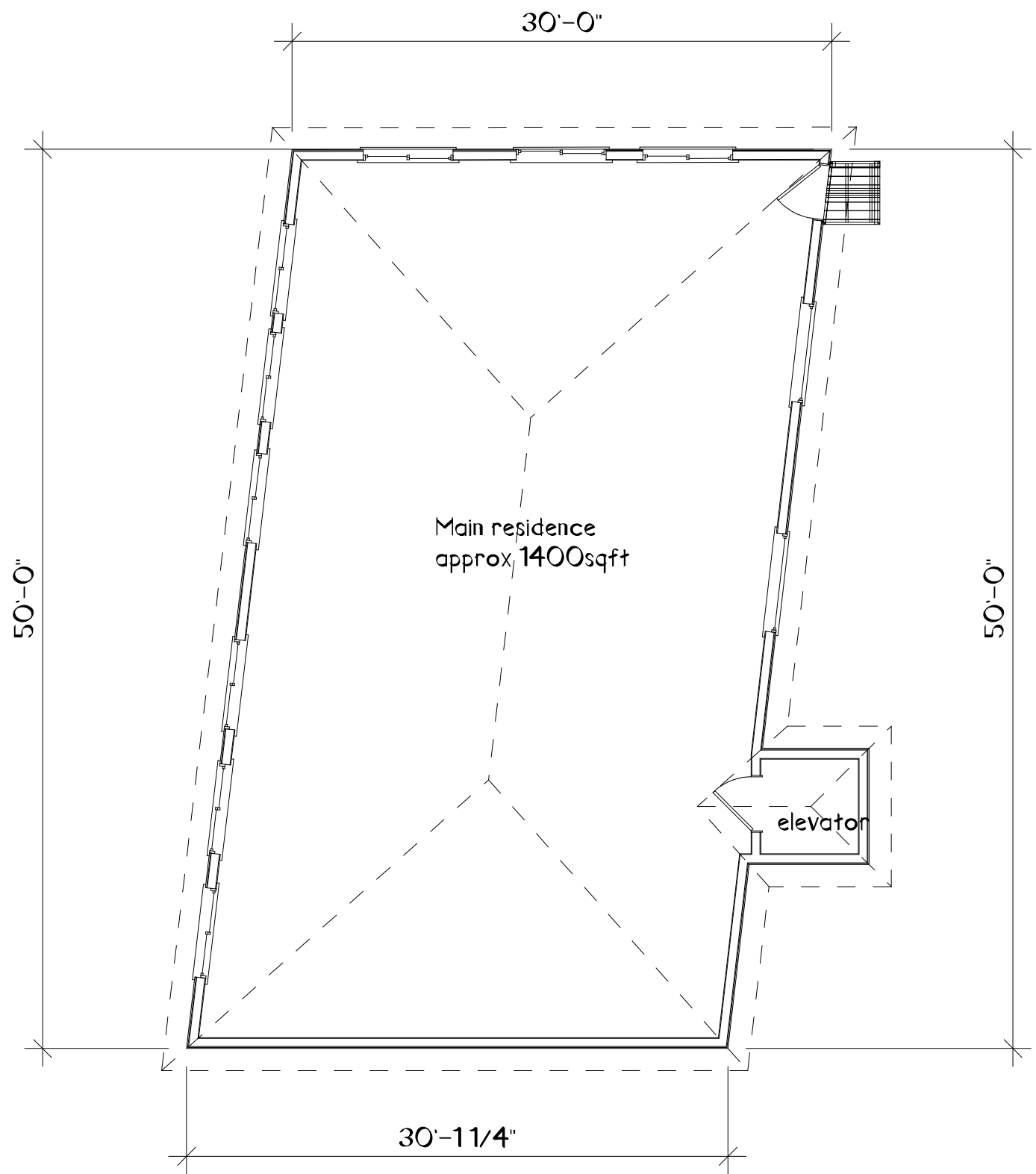
PROJECT NAME:

CLIENT:

DRAWING:

SCALE: DATE:

DRAWN BY:	SHEET: 2nd Flr Plan
CHECKED BY:	
APPROVED BY:	



GENERAL NOTES

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PROJECT NAME:

CLIENT:

DRAWING:

SCALE:	DATE:
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DRAWN BY:	3rd Flr Plan
CHECKED BY:	
APPROVED BY:	





PORT OF TILLAMOOK BAY RAILROAD
USE OF PROPERTY – FEE SCHEDULE
Revised September, 2022

EXHIBIT B

One Time Preparation Fees

New Permit	\$300.00
Recording at County.....	at cost
Legal Description as required.....	at cost
Amend Existing Permit.....	\$100.00
New Permit – Cell Phone Tower*.....	\$2,500.00
New Permit – Fiber Optic*.....	\$2,500.00
New Permit – Utility*	\$2,500.00

*Applicant may be required to cover Port legal fees

One Time Inspection Fee

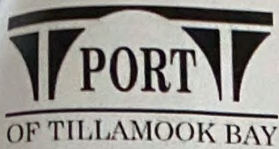
Actual Time (one hour minimum, if needed) per hour.....	\$100.00
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Annual Crossing Fees

Utility Line Crossing.....	\$300.00
Water/Sewer.....	\$400.00
Phone.....	\$600.00
Electrical (single service line).....	\$2,000.00
Fiber Optic.....	
Private Road Crossing.....	\$125.00
Residential/Farm.....	\$300.00
Commercial/Industrial.....	\$200.00
Road Access.....	

Property Use Fees (minimum \$50/year) - Annual unless marked

Residential/Farm-per sq. ft.....	\$0.50
Commercial/Industrial/Utility – per sq. ft.....	\$0.50
Signs (<25 sq. ft.).....	\$200.00
Signs (25-50 sq. ft.).....	\$300.00
Signs (51-100 sq. ft.).....	\$400.00
Signs (101-250 sq. ft.).....	\$750.00
Signs (> 250 sq. ft.).....	\$1,000.00
Cell Phone Tower (footprint <130 sf) monthly.....	\$1,200.00
Cell Phone Tower (footprint >130 sf) monthly.....	\$1,500.00



PORT OF TILLAMOOK BAY RAILROAD
USE OF PROPERTY – FEE SCHEDULE
Revised September, 2022

EXHIBIT B

Property Use Fees (minimum \$50/year) - Annual unless marked

Other Utility Tower (footprint <130 sf).....	\$4,500.00
Other Utility Tower (footprint >130 sf).....	\$7,500.00
Utility Line (per lineal foot; included 2-foot minimum).....	\$0.30
Fiber Optic Utility Line (per lineal foot, including 2-foot minimum width).....	\$0.75

NOTE: Underground Utility Encroachment minimum width shall be two (2) feet.
Additional width is negotiable per two-foot width increments.

NOTE: Fees are non-refundable

NOTE: The Port of Tillamook Bay Railroad reserves the right to waive any fees.

NOTE: RR Right of Way – Lineal foot uses must be reviewed by the Board.

NOTE: Requests for one-time payment in lieu of Fee Schedule shall be calculated as a 99-year lease with a COLI annual escalation rate (3% in 2022, subject to adjustment).

The above rates may be reviewed and adjusted by the Board of Commissioners at any time.



ENCROACHMENT LICENSE AGREEMENT

This Encroachment Agreement ("Agreement") made this March 1, 2024 ("Effective Date"), by and between the PORT OF TILLAMOOK BAY ("the Port"), and HISTORICAL ROCKAWAY SNACK SHACK, LLC ("Licensee").

Port's Address for Giving of Notices.

Port of Tillamook Bay
Attn: Michele Bradley, General Manager
4000 Blimp Blvd. Suite 100
Tillamook, OR 97141
(503) 842-2413
mbradley@potb.org

Port's Address for Payment.

Port of Tillamook Bay
Attn: Accounts Receivable
4000 Blimp Blvd. Suite 100
Tillamook, OR 97141

Licensee Address for Giving of Notices.

Historical Rockaway Snack Shack, LLC
Joe's Snacks and Beer
Attn: Debra Reeves
PO Box 1429
Rockaway Beach, OR 97136
(503) 702-2002
dereeves77@gmail.com

1. The Port hereby grants to Licensee (subject to the terms of this Agreement) a license to the right to construct, reconstruct, and maintain a 50 feet by 10 feet (500 sq. ft.) piece of property belonging to the Port at or near Railroad Mile Post 840.69 in or near the City of Rockaway Beach, Tillamook County, State of Oregon, as described and depicted on Exhibit A hereto ("Licensed Property") for the sole purpose of parking, located at 101 S. Miller St., Rockaway Beach, Oregon 97136, Map Tax Lot 2N1032CC09600, and referenced to Deed #2022-3304.

This Agreement shall continue until terminated as provided in Section 17 through 20.

2. Licensee has inspected the Licensed Property and accepts the same "AS IS" without any express or implied warranties of any kind, including any warranties or representations by the Port as to title or the condition or fitness of the Licensed Property for any use.

3. The License granted in this Agreement is subject to all existing licenses, leases, easements, encumbrances, covenants, and claims of title affecting the Licensed Property, including, without limitation, the rights of the Port and the Salmonberry Trail Intergovernmental Agency ("STIA") under the Salmonberry Trail Rail Line Use Agreement dated April 6, 2018 between the Port and STIA ("STIA Agreement"), and to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions, and orders of any local, state, or federal agency now or later having jurisdiction over the Licensed Property or Licensee's use of the Licensed Property. Notwithstanding any term in this Agreement to the contrary, Licensee's rights in the Licensed Property are limited to the rights created by this Agreement, which create only a license in the Licensed Property, which is revocable as expressly set forth herein.

4. Upon Licensee's execution of this Agreement, Licensee shall pay to the Port a license fee ("License Fee") of \$250.00, plus \$300 new permit fee, for Licensee's use of the Licensed Property during the first year of this Agreement. Thereafter during the term of this Agreement, Licensee shall pay the License Fee on the anniversary date of this Agreement. The License Fee shall increase by at least 3% each year after the initial year that this Agreement remains in effect. Additionally, one-time fees, for agreement preparation and inspection, if required, will be assessed and payable with the initial License Fee payment. See current rate sheet attached hereto as Exhibit B. The License Fee is subject to change upon approval of the Port's Board of Commissioners and thirty (30) days' prior written notice to the Licensee.

5. Licensee, at Licensee's sole cost expense, shall maintain the Licensed Property in a good and safe condition acceptable to the Port and free and clear of all rubbish, debris, and any other materials. Licensee shall not remove, damage, or alter in any way any existing improvements or personal property of the Port within the Licensed Property without the Port's prior written approval, which may be withheld in the Port's sole discretion. Licensee, at Licensee's sole cost and expense, shall repair any damage or alteration to the Port's property or the Licensed Property to the same condition that existed before the damage or alteration, reasonable wear and tear excepted.

6. All Port property (including railroad right of ways) shall remain free of any political party affiliations, supportive campaign signage and/or language of any specific person affiliated or not affiliated to any such political party.

7. Licensee shall not perform any work of construction or repair on the Licensed Property (except emergency repairs) unless the Port is given five (5) days' advance written notice thereof and the approval of the Port for such work is obtained in writing. All improvements made by Licensee to the Licensed Property pursuant to the terms of this Agreement are subject to and must be in compliance with all applicable codes, ordinances, and laws. On the termination of this Agreement, if requested by the Port, Licensee, at its sole cost and expense, shall remove any improvements made to the Licensed Property by or on behalf of Licensee. Licensee shall reimburse the Port for all costs and expenses incurred by the Port in connection with the construction, maintenance, and removal of any improvements made by Licensee on the Licensed Property.

8. Licensee shall pay for all materials joined or affixed to, and for all labor performed upon, the Licensed Property at Licensee's instance or request, and Licensee shall not permit or suffer any mechanics' liens or materialmen's liens of any kind or nature to be levied against the Licensed Property for any such work done or materials joined or affixed thereto.

9. Licensee shall not obstruct or interfere or allow any other person or entity to obstruct or interfere, with the passage of the Port's trains or STIA's use of the Licensed Property in accordance with the STIA Agreement.

10. Licensee shall not produce, dispose, transport, treat, use, or store any hazardous waste or toxic substance upon or about the Licensed Property in violation of any federal, state, or local law pertaining to hazardous waste or toxic substances and shall not use the Licensed Property in a manner inconsistent with any regulations, permits, or approvals issued by any federal or state agency. Licensee shall defend, indemnify, and hold the Port and its elected or appointed officials, agents, boards, commissions, and employees (collectively, the "Port Parties") harmless against any damages, claims, losses, or liabilities (including attorney fees and expenses) ("Damages") incurred by the Port or a Port Party by reason of any hazardous waste or toxic substance on or affecting the Licensed Property attributable to or caused by Licensee or any of Licensee's officers, directors, shareholders, members, managers, employees, contractors, representatives, or invitees (collectively, "Licensee Parties"). Licensee shall immediately notify the Port of any hazardous waste or toxic substance at any time discovered or existing upon the Licensed Property. Licensee shall promptly and without request by the Port provide the Port with copies of all written communications between Licensee and any governmental agency concerning environmental inquiries, reports, or problems relating to hazardous waste or toxic substances on the Licensed Property. Licensee's obligations under this section shall survive the termination of this Agreement or Licensee's use of the Licensed Property.

11. Licensee shall indemnify, defend, and hold harmless the Port and the Port Parties from all Damages that arise out of any act or omission of Licensee or any of the Licensee Parties in connection with the use or operations on the Licensed Property and that result directly or indirectly in the injury to or death of any person or the damage to or loss of any property, or that are caused by the failure of Licensee or any Licensee Party to comply with any term of this Agreement, except to the extent the Damages are caused by the Port's or its agents' gross negligence or willful misconduct. Licensee's obligations under this section shall survive the termination of this Agreement or Licensee's use of the Licensed Property.

12. In addition to the indemnity obligations of Licensee set forth in Sections 9 and 10, Licensee shall indemnify, defend, and hold harmless STIA against all Damages, whether or not involving a third-party claim, which arise out of or relate to the use or operation of the Licensed Property by Licensee or the Licensee Parties. Licensee's obligations under this section shall survive any termination of this Agreement or Licensee's use of the Licensed Property.

13. At all times during this Agreement, Licensee shall provide and maintain insurance in the following minimum amounts and types of coverage, insuring Licensee's possession, use, and control of the Licensed Property.

i. General liability insurance, naming the Port as an additional insured, covering Licensee against claims of bodily injury, personal injury, and property damage arising out of the Licensee's operations, assumed liabilities, or use of the Licensed Property, including a liability endorsement covering the insuring provisions of this Agreement and the performance by Licensee of the indemnity agreements set forth in this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence, with a \$2,000,000 aggregate limit.

ii. Property damage insurance covering all improvements on the Licensed Property. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the guaranteed replacement cost value new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include a vandalism and malicious mischief endorsement.

iii. In the event that automobiles are used in connection with Licensee's use of the Licensed Property, Licensee shall maintain an occurrence form automobile liability policy or policies insuring against liability for damage because of bodily injury, death, or damage to property, including loss of use thereof, and occurring in any way related to the use, loading, or unloading of any automobiles (including owned, hired, and non-owned vehicles) on and around the Licensed Property. Coverage shall be in an amount of not less than \$1,000,000.

iv. If Licensee has employees, Licensee shall maintain in force workers' compensation insurance for all of Licensee's employees in accordance with all requirements of Oregon law and employer's liability coverage in an amount of not less than \$500,000 per accident and \$500,000 per employee for disease. In lieu of such insurance, Licensee may maintain a self-insurance program meeting the requirements of the State of Oregon and a policy of excess workers' compensation and employer's liability insurance.

14. The insurance requirements set forth in Section 12 do not in any way limit the amount or scope of liability of Licensee under this Agreement. The amounts listed indicate only the minimum amounts of insurance coverage the Port is willing to accept to help insure full performance of all terms and conditions of this Agreement. All insurance required under this Agreement shall meet the following minimum requirements:

i. On or before the Effective Date and annually thereafter during the term of this Agreement, Licensee shall provide the Port with current certificates of insurance, including an additional insured endorsement, executed by a duly authorized representative of each insurer, evidencing the existence of all insurance policies required under Section 12. No insurance policy may be canceled, materially revised, or allowed to expire without at least thirty (30) days' prior written notice being given by Licensee to the Port. Upon written request, Licensee shall also provide copies of its policies of insurance to the Port.

ii. The required policies shall provide that the coverage is primary and will not seek any contribution from any insurance or self-insurance carried by the Port.

iii. All policies of insurance must be written by companies having an A.M. Best rating of "A-" or better, or equivalent.

iv. The Port shall have the right to periodically review the types, limits, and terms of insurance coverage required of Licensee by this Agreement. If the Port reasonably determines that such types, limits, and/or terms should be changed, the Port will give Licensee a minimum of thirty (30) days' notice of such determination. Licensee shall promptly increase coverage to comply with the new insurance requirements and provide the Port with proof of such compliance by providing updated certificates of insurance within thirty (30) days of Licensee's receipt of the Port's notice.

15. Licensee shall pay any tax or assessment arising out of or as a result of its use of the Licensed Property and is responsible for obtaining and paying for all utilities necessary for its use of the Licensed Property.

16. The Port may, at any time, enter upon the Licensed Property for any lawful purpose, so long as the action does not unreasonably interfere with Licensee's use of the Licensed Property in accordance with this Agreement. Without limiting the generality of the foregoing, the Port and any furnisher of utilities and other services shall have the right, at their own cost, to maintain existing and future utility, mechanical, electrical, and other systems and to enter upon the Licensed Property at all times to make repairs, replacements, or alterations thereto that may, in the opinion of the Port, be deemed necessary or advisable and from time to time to construct or install over, in, or under the Licensed Property the systems or parts thereof and, in connection with maintenance, use the Licensed Property for access to other parts in and around the Licensed Property; provided that in the exercise of the right of access, repair, alteration, or new construction, the Port shall not unreasonably interfere with the use of the Licensed Property by Licensee in accordance with the terms of this Agreement.

17. This Agreement may be terminated by a notice given of at least 30 days written notice by either party; however, if the 30-day expiration date falls into the following calendar month, the expiration date will expire on the last day of that calendar month, or such earlier date of termination pursuant to the terms of this Lease. No partial rent is eligible for return or credit.

18. If Licensee's structure(s) is destroyed or if Licensee demolishes the structure(s), this Agreement shall automatically terminate, and Licensee shall not have the right to rebuild any portion of the Encroachment Improvements in the Encroachment Area. If the portion of the Licensee's structure(s) located in the Encroachment Area is damaged and Licensee does not repair such damage within one (1) year after the occurrence of the damage, this Agreement shall automatically terminate.

19. The Port and Licensee agree that the Port may record this Agreement in the county in which the Licensed Property is located. The Port and Licensee shall execute, simultaneously with the execution of this Agreement, a termination of this Agreement ("Termination") in the form attached hereto as Exhibit C and such other instruments required to record the Termination, which shall be held by the Port pending termination of this Agreement for any reason. Upon any such termination, the Port shall record the Termination in the county in which the Licensed Property is located, without any further action by or agreement from Licensee.

20. Upon termination of this Agreement, the license granted herein shall cease and Licensee, at Licensee's expense and if requested by the Port, promptly shall remove from the Licensed Property any and all improvements made to the Licensed Property by Licensee, stored materials, and other personal property, leaving the Licensed Property in a neat, safe, and clean

condition. If Licensee fails to perform its obligations under this section, the Port may perform such work at the expense of Licensee and Licensee shall pay the Port for such work, on demand. In the Port's sole discretion, any improvements, materials, and personal property left on the Licensed Property shall become the property of the Port.

21. Licensee shall not assign this Agreement or Licensee's rights and obligations under this Agreement.

22. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or mailed by certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth in the introductory paragraph of this Agreement or such other address as either party may designate in writing to the other party. Any notice given by certified mail shall be deemed to be received on the third business day after the date of mailing.

23. This Agreement shall be construed in accordance with and be governed by the laws of the State of Oregon. Venue for any proceeding at law or in equity shall be Tillamook County, Oregon and the parties hereby waive any right to object to venue.

24. If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective.

25. If any action is instituted to interpret or enforce the terms of this Agreement, or otherwise with respect to the subject matter of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney fees and other court and direct costs incurred in connection with such action or proceeding and any appeal or review thereof.

26. This Agreement constitutes the entire agreement between the parties concerning the subject matter of the Agreement and supersedes all prior negotiations, understandings, and agreements between the parties concerning those matters. This Agreement shall be interpreted, applied, and enforced according to the fair meaning of its terms and not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its terms. No term of this Agreement may be waived or modified except by a writing signed by the party against whom the waiver or modification is sought to be enforced. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The terms of this Agreement are binding upon and inure to the benefit of the parties' successors and permitted assigns.

(Remaining page left blank intentionally)

(Signatures and Acknowledgments on following page)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

PORT

PORT OF TILLAMOOK BAY

By: Michele Bradley

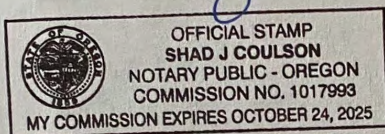
Name: Michele Bradley

Title: General Manager

STATE OF OREGON)

County of Tillamook) ss.

This instrument was acknowledged before me on March 20, 2024, by Michele Bradley as General Manager of the Port of Tillamook Bay.



Shad J. Coulson
NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/24/25

LICENSEE

HISTORICAL ROCKAWAY SNACK SHACK, LLC

By: Debra Reeves

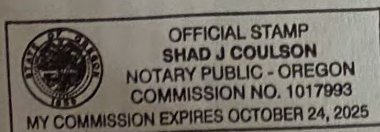
Name: Debra Reeves

Title: Owner

STATE OF OREGON)

County of Tillamook) ss.

This instrument was acknowledged before me on March 20, 2024, by DEBRA REEVES as Licensee.



Shad J. Coulson
NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/24/25



EXHIBIT A

POTB Railroad MP 840.69 Encroachment
Historical Rockaway Snack Shack, LLC – 101 S. Miller St., Rockway Beach, OR 97136

*MAP FOR REFERENCE PURPOSES ONLY.
NOT SUITABLE FOR ENGINEERING, OR
SURVEY PURPOSES.



Legend: Benefitting Lot #600

Encroachment

Right of Way 60' (30' / 30')



**CITY OF ROCKAWAY BEACH
PLANNING COMMISSION ACTION**

STAFF REPORT

Case File #VAR-24-2

Date Filed: March 27, 2024, Supplemented May 1, 2024

Hearing Date: May 16, 2024

APPLICANTS: Debra Reeves and Bryce Zehrung

REQUEST: The Applicants are seeking a variance to reduce the number of required parking spaces for their proposed mixed-use building from six parking spaces to two. The Applicants seek to construct a three-story, mixed-use building which would consist of commercial space on the bottom floor, two dwelling units on the second floor, and a third dwelling unit on the third floor. No parking is required for the commercial space. Two parking spaces are required for each of the dwelling units.

A. REPORT OF FACTS

1. Property Location: The property is 101 South Miller Street, Rockaway Beach and is further identified on Tillamook County Assessor's Map # 2N1032CC Lot #9600.
2. Lot Size: approximately 4,987 square feet
3. Zoning Designation: C1 (Commercial Zoning).
4. Surrounding Land Use: The subject property is surrounded by mixed-use property to the South, commercial property to the West, the railroad and Highway 101 to the East, and the wayside public parking lot to the North.
5. Existing Structures: There is two story, mixed-use building on this property.
6. Utilities: The following utilities serve the subject property:
 - a. Sewer: City of Rockaway Beach
 - b. Water: City of Rockaway Beach
 - c. Electricity: Tillamook P.U.D.
7. Development Constraints: None.

B. EVALUATION OF THE REQUEST

1. General Description of the Proposal: The Applicants are requesting a variance to reduce the number of required off-street parking spaces for their proposed mixed-used building from six parking spaces to two. The Applicants seek to construct a three-story, mixed-use building, which would consist of commercial space on the bottom floor, two dwelling units on the second floor, and a third dwelling unit on the third floor. No parking is required for the commercial space. Two parking spaces are required for each of the dwelling units.
2. Background: The subject property has a two-story, mixed-use building which is commonly known as Joe's Snack & Beer. The property is approximately 4,987 square-feet.
3. Agency Comments: None.
4. Ordinance Standards: The following ordinance standards apply to this request:



Rockaway Beach Zoning Ordinance

Article 3. Use Zones.

Section 3.050. Commercial Zone (C-1).

1. **Uses Permitted Outright:** In a C-1 zone, the following uses and their accessory uses are permitted outright:
 - a. Retail activities.
 - b. Services such as banks, barber and beauty shops, small repair shops, printing shops, laundries.
 - c. Eating and drinking establishments.
 - d. Amusement activities.
 - e. Business and professional offices.
 - f. Motels, hotels, and bed and breakfast.
 - g. Churches or community meeting halls.
 - h. Hospital, sanitarium, nursing home or rest home.
 - i. Arts or craft studios.
 - j. Public utility structure such as a substation.
 - k. Parks and publicly owned recreation areas.
 - l. Government or municipal structure.
 - m. Home occupation (See Section 4.090).
 - n. Private recreation uses such as tennis courts, and swimming pools or racquetball facility, when not in conjunction with another permitted use.
 - o. Family day care center and day care center.
 - p. Residential home.
 - q. Residential facility.
 - r. Signs in accordance with Section 4.050.
 - s. Mobile Food Unit.
 - t. A manufactured dwelling or recreational vehicle used during the construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.
 - u. Structural shoreline stabilization.
 - v. Residential Use, limited to the second story or above, and no more than 50% of the ground floor, on the condition that a commercial use be located on at least 50% of the area of the ground floor
2. **Conditional Uses Permitted.** In a C-1 zone, the following conditional uses and accessory uses are permitted:
 - a. Service stations, car lots, lumber yards, mobile home dealerships, public or private parking facilities, boat dealers, farm equipment dealers, or similar uses which require large land areas. These uses are intended to be outside of the immediate downtown area (between N. 4th to S. 3rd, the oceanfront and Beacon Street) and located on U.S. Highway 101. The Planning Commission or City Council shall consider this when issuing conditional use permits.
 - b. Cabinet or wood working shops, plumbing, heating, electrical, paint or other contractor storage, retail or sale shops.
 - c. Second hand sales with all merchandise enclosed within a structure.



- d. Wholesale warehouse or storage establishments.
 - e. Tire retreading, welding or machine shops.
 - f. Single family dwellings including modular housing and manufactured homes, duplexes and multiple family dwellings. Manufactured homes shall be subject to the standards of Section 4.091.
3. **Standards.** In a C-1 zone, the following standards shall apply:
- a. Building setbacks shall be governed by fire protection standards administered by the Building Official.
 - b. Maximum building height shall be 45 feet, except that on the oceanfront from North Third Avenue to North Sixth Avenue the maximum building height shall be 20 feet.
 - c. Where a 45 foot building height is permitted, the first story shall be a minimum of 12 feet in height as measured from grade and shall be designed to accommodate future potential commercial use.
 - d. Multiple story buildings shall use architectural design features to differentiate the first story and the first story shall be designed to accommodate future potential commercial use.
 - e. The height above grade of an overhang or awning shall be a minimum of 10 feet above the sidewalk grade and 12 feet above the street grade where no sidewalk exists.
 - f. For commercial uses, permanent landscaping consisting of native vegetation is encouraged. Hardscape features such as benches, walkways, and outdoor seating areas shall be compliant with the American with Disabilities Act Accessibility Guidelines.
 - g. Where a commercial use abuts a residential zone, the commercial use shall provide a sight-obscuring fence or hedge of at least 5 feet in height. Floodlights shall be shielded so as not to cast glare on an adjacent residential use.
 - h. Storage of merchandise, waste disposal equipment, or similar material shall be screened from view.
 - i. Automobile service stations shall have a minimum lot size of 10,000 square feet, with a minimum width of 100 feet.
 - j. Commercial uses shall have permanent facilities, such as an office, which are connected to City services including water and sewer.

Article 8. Variances.

Section 8.010. Purpose

1. The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site, or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity or from population densities, street location, or traffic conditions in the immediate vicinity.
2. The power to grant variances does not extend to use regulations. In other words, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020. Criteria



1. Variances to a requirement of this chapter with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation, and evidence submitted by the applicant, that all four expressly written findings are made:
 - a. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the Comprehensive Plan; and
 - b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and
 - c. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity; and
 - d. That the granting of the variance would support policies contained within the Comprehensive Plan. Variances in accordance with this subsection should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner.
2. Variances to requirements of this chapter with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings are made:
 - a. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter.
 - b. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.
 - a. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter. Where a variance request is being reviewed under Section 8.020(2), only the criteria of Section 8.020(2) shall be addressed. The criteria of Section 8.020(1) are not applicable.

Section 8.030. Conditions. Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.

C. STAFF SUMMARY

In order to mitigate the off-street parking reduction request, the Applicants have entered into a lease with the Port of Tillamook Bay to reserve a portion of the right-of-way on South Miller, in front of Joe's Snacks & Beer. In the Applicant's response to the criteria, it is stated that this leased area is currently used (and has been historically used for decades) as a loading and unloading zone for the laundromat located at the subject property. This lease will allow the Applicant's to provide an additional three parking spaces for the duration of the lease. While Staff generally agree that the granting of the Variance will not impact future traffic volumes or create safety hazards, however the Applicant's response to Variance Criteria §8.020(2)(b) creates a question of whether the granting of the Variance will result in laundromat customers parking and loading/unloading on the street, when the spaces traditionally used for this, are now reserved for residential parking.



D. CONCLUSION

If, after hearing the evidence at the hearing, the planning commission agrees that sufficient facts exist to grant the variance, they should direct staff to write findings based on the evidence to permit the variance. If they do not find that sufficient evidence exists to allow the variance, they should direct staff to write findings for denial of the variance.

APPLICATION LOCATION:

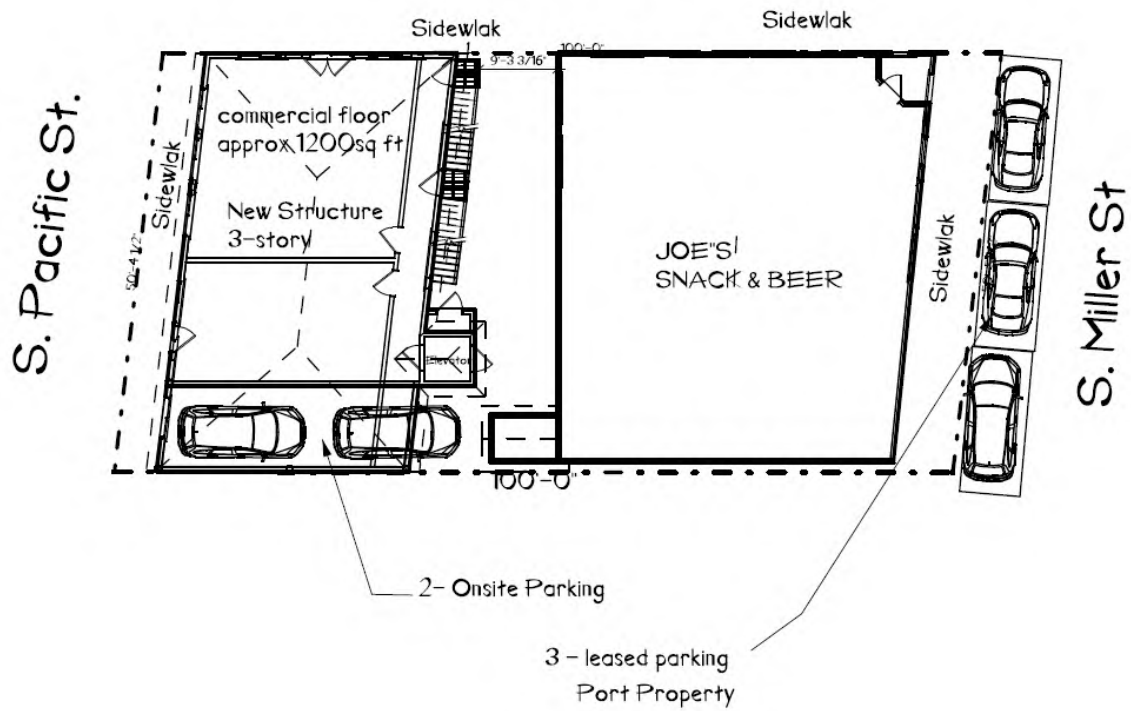


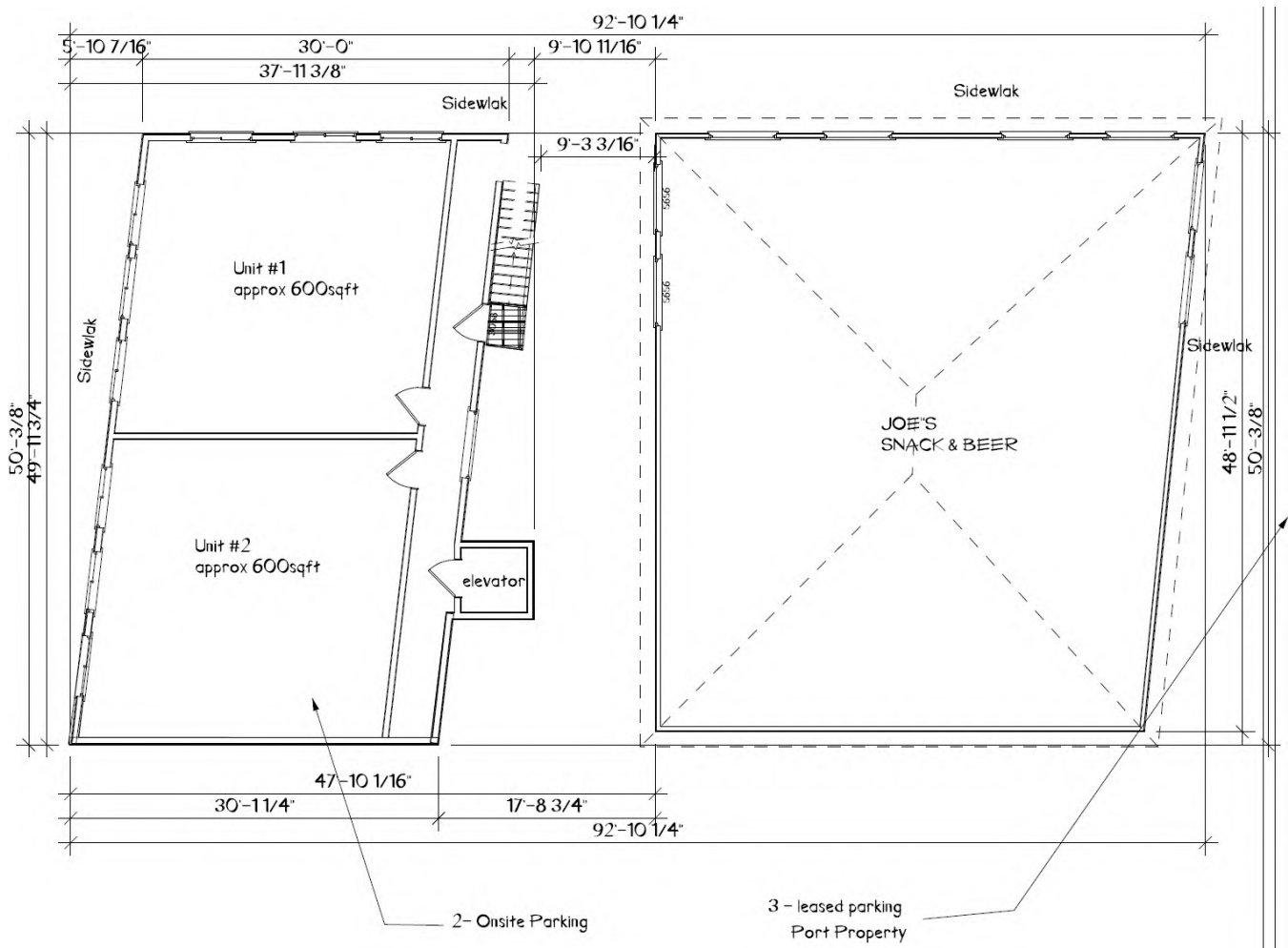


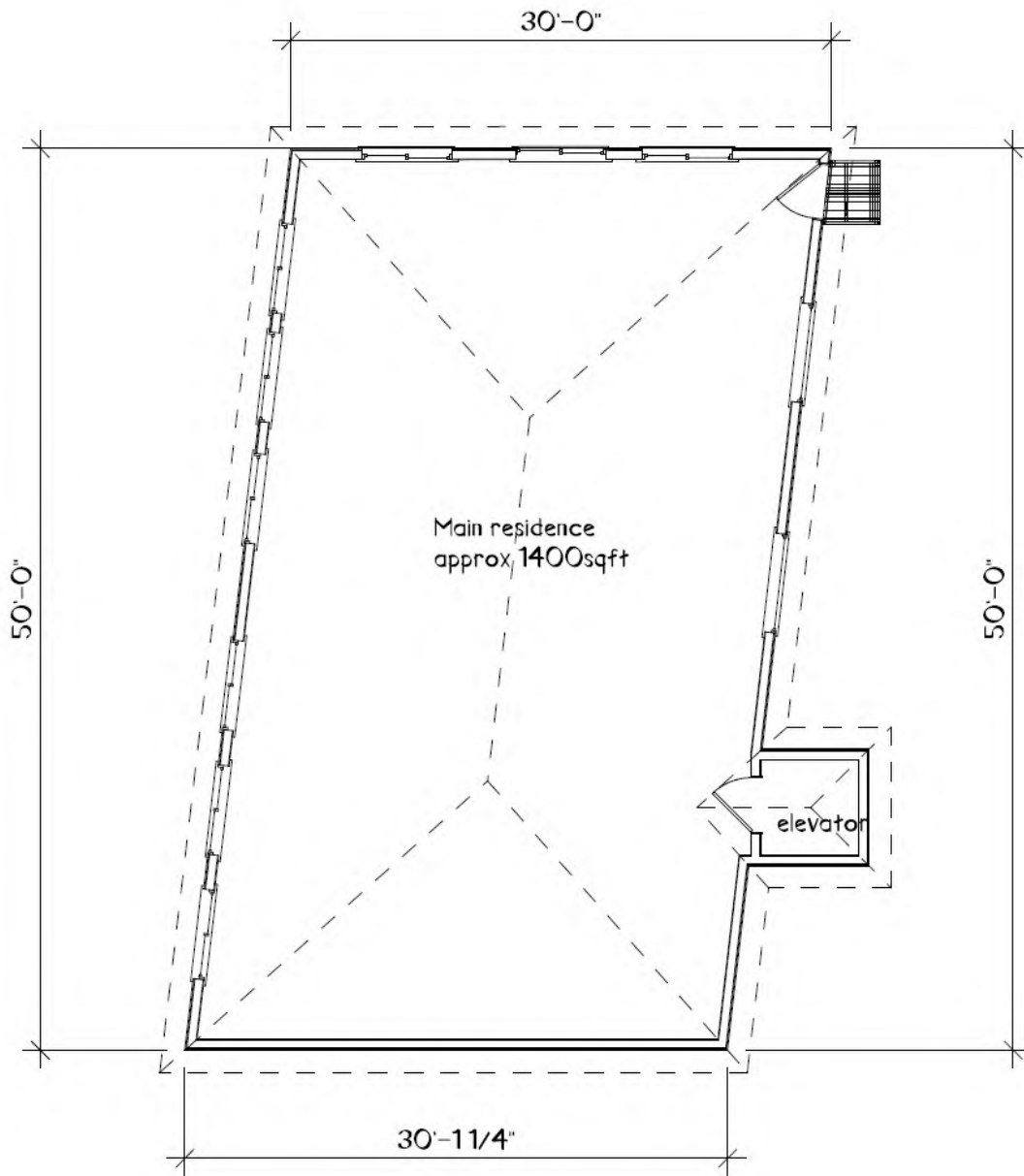
SITE PLAN



S. 1st St.







April 15,2024

To Mary Johnson, city planner, and the Rockaway Beach planning commission:

I am writing in regards to your consideration of a variance approval for the property located at 101 S. Miller, Rockaway Beach, OR.

Parking is already a major problem in Rockaway Beach. To allow the parking requirement to go from 6 spaces to 2 spaces is simply not a good idea. Three residences most likely with 2 cars per residence equals 6 spaces. Going down to 2 spaces, where will the other 4 legally park?

Secondly, if you make an exception for 1 property you can bet more will be asking in the future. Then what?

Thank you for your consideration.


Elizabeth Vermeulen


Alice Pyne

POBox 1229
Tillamook, OR. 97141

File # variance #24-2

Use criteria include Rockaway Beach zoning ordinance, section 8.020

Variance use criteria

Section 4.050. Sign Requirements.

1. No sign shall be placed in or extend over a required street right-of-way except sidewalks. Signs over sidewalks shall not be less than 8 feet from the sidewalk grade. Where no sidewalk exists, the 6 feet of right-of-way on either side of the street shall be considered the sidewalk.
2. There shall be no moving or flashing signs, and light from a sign shall be directed away from a residential use or zone, and shall not be located so as to detract from a motorist's view.
3. Signs shall be limited to the following:
 - a. Commercial uses, other than motel, hotel, or timeshare condominium; one square foot of sign area for each lineal foot of street frontage, but not to exceed 75 square feet in area.
 - b. Motel, hotel, or timeshare condominiums; 75 feet in area.
 - c. Light industrial; 24 square feet in area.
 - d. Nonresidential uses such as churches or schools; 12 square feet in area.
 - e. Multifamily and condominiums; 12 square feet in area.
 - f. Home occupation; 4 square feet in area.
4. Sign area shall be calculated such that one side of an opposing-sided or non-parallel sign may be used for the purposes of measuring square footage. The larger side must be used for the determining factor.
5. Off premise signs shall be no larger than 24 square feet in area.
6. Sandwich board signs. For the purposes of this section, "sandwich board sign" means a sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.
 - a. One nonilluminated sandwich board sign, with each face not exceeding eight square feet in area, shall be allowed per business.
 - b. Sandwich board signs must be placed directly in front of the associated establishment.
 - c. The sandwich board sign shall not be located within a street or street right-of-way, except that where sidewalks exist, such a sign may be located on a public sidewalk. The sign shall not obstruct pedestrian traffic. If located on a public or private sidewalk, it shall be placed either adjacent to the curb or adjacent to the building so as to allow a 36- inch minimum walkway.
 - d. Sandwich board sign area shall not be deducted from the aggregate sign area allowed in Section 4.050(3).

Section 4.050. Sign Requirements.

1. **Placement.** No sign shall be placed in or extend over a required street right-of-way except sidewalks. Signs over sidewalks shall not be less than 8 feet from the sidewalk grade. Where no sidewalk exists, the 6 feet of right-of-way on either side of the street shall be considered the sidewalk.
2. **Measurements.** The following shall be used in measuring a permanent sign to determine compliance with this Chapter:
 - a. Signs shall be limited to the following:
 - i. Commercial uses, other than motel, hotel, or timeshare condominium; one square foot of sign area for each lineal foot of street frontage, but not to exceed 75 square feet in area.
 - ii. Motel, hotel, or timeshare condominiums; 75 feet in area.
 - iii. Light industrial; 24 square feet in area.
 - iv. Nonresidential uses such as churches or schools; 12 square feet in area.
 - v. Multifamily and condominiums; 12 square feet in area.
 - vi. Home occupation; 1 square foot 4 square feet in area.
 - b. Sign area shall be calculated such that one side of an opposing-sided or non-parallel sign may be used for the purposes of measuring square footage. The larger side must be used for the determining factor.
 - c. Off premise signs shall be no larger than 24 square feet in area.
3. **Sandwich board signs.** For the purposes of this section, "sandwich board sign" means a sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.
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 - b. Sandwich board signs must be placed directly in front of the associated establishment.
 - c. The sandwich board sign shall not be located within a street or street right-of-way, except that where sidewalks exist, such a sign may be located on a public sidewalk. The sign shall not obstruct pedestrian traffic. If located on a public or private sidewalk, it shall be placed either adjacent to the curb or adjacent to the building so as to allow a 36- inch minimum walkway.
 - d. Sandwich board sign area shall not be deducted from the aggregate sign area allowed in Section 4.050(3).
4. **Prohibitions.** The following are expressly prohibited, unless specifically stated otherwise in this Chapter:
 - a. There shall be no moving or flashing signs.
 - b. Light from a sign shall be directed away from a residential use or zone and shall not be located so as to detract from a motorist's view.
 - c. External light sources for a sign shall be directed downward and shielded to limit direct illumination of any object other than the sign.
5. **Nonconforming Signs.** Nonconforming permanent signs existing at the time this 2025 Ordinance becomes effective, may continue, subject to the restrictions in this section:
 - a. A nonconforming sign shall not be:
 - i. Expanded in size or height that increases nonconformity, or
 - ii. Relocated.
 - b. A nonconforming permanent sign may be maintained or altered, including changing the face or repair, provided no changes are made that would increase nonconformity.
 - i. If a nonconforming sign is destroyed by wind, fire, rain or by any other natural disaster, the sign shall not be replaced and shall lose its nonconformity and any

Commented [CP1]: Added from Lincoln City's Code

Commented [CP2]: Added from Lincoln City's Code

Commented [CP3]: §4.090. Home Occupations conflicts with the current Sign Requirements. §4.090(a) states: *No sign is used other than a nameplate not over one square foot in area.*

Commented [CP4]: Added from Lincoln City's Code

Commented [CP5]: Added from Lincoln City's Code in response to public comment received.

remaining portions shall be removed; any new signage erected in its place shall comply with the provisions of this Chapter.

6. Exempt Signs. The following signs are exempt from regulations under this Chapter:

- a. Signs erected or maintained by or on behalf of a federal, state, or local governmental body.

Commented [CP6]: Added from Lincoln City's Code

Commented [CP7]: Added from Newport's Code