

## Applicant Responses – Article 15: Conditional Use/Activities

### ARTICLE 15: CONDITIONAL USE/ACTIVITIES

#### Section 15.010. Intent

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

#### ***Applicant Response:***

The property is located in a WRC - WATER RELATED COMMERCIAL ZONE, and the applicant is requesting following uses which are allowed as Conditional Use/Activities, in a WRC Zone:

- (1) Hotels and Motels - (ARTICLE 2.WRC ZONE - Section 2.030, Conditional Uses/Activities, # 9)
- (2) Restaurants - (ARTICLE 2.WRC ZONE - Section 2.030, Conditional Uses/Activities, # 10)

#### Section 15.020. Authorization.

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

1. Increasing the required lot size or yard dimensions;
2. Reducing the required height and size of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the required off-street parking spaces;
5. Increasing the required street width;
6. Limiting the number, size, location, and lighting of signs;
7. Requiring diking, fencing, screening, landscaping, berms, or other items to protect adjacent or nearby property;

8. Designating sites for open space; and
9. Increasing pipe size or other public facility installment requirements, such as for fire protection, waterflow, sewerage, or storm drainage.

**Applicant Response:**

Applicant demonstrates and provides, the following requirements:

- I. Conformity with the comprehensive plan
- II. The proposed use of the site and design of the project will be compatible with permitted uses in the area.
- III. The proposed use of the site and design of the project minimizes adverse impacts to the site and adjacent areas.

**I. Conformity with the Comprehensive plan.**

Applicant is in conformity with the Comprehensive Plan and provides narratives, as follows, for each Statement of Goals of the Comprehensive Plan:

**GOAL I: CITIZEN INVOLVEMENT**

**INTRODUCTION**

If Wheeler is to move forward with the adoption of the priorities outlined in the Wheeler Vision Plan, it is imperative that citizen involvement and transparency are an integral part of planning or policy decision. Part of being a small town and keeping that atmosphere requires Wheeler to understand and act on the input of its citizens. Therefore, Wheeler has a history of, and will continue its commitment to, using citizen-based groups and committees to make recommendations to the City Council on issues of importance to the community. This process begins with the appointment of the Planning Commission the primary and regular citizen's input committee on land use. Wheeler has not stopped there and has often appointed ad hoc committees of citizens to give both the Planning Commission and City Council feedback and recommendations on issues of importance to the community at large.

**GOAL:**

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

POLICIES:

1. All Wheeler area residents shall have an opportunity to be involved in the City's planning process.

**Applicant Response:**

The applicant originally filed a Conditional Use Application back in October 2019.

In 2020, Botts Marsh received approval from the City for two conditional use applications to develop the Property with a commercial building and a 28-room hotel.

Opponents of Botts Marsh's conditional use applications appealed the City's decision to the Oregon Land Use Board of Appeals ("LUBA") and, in March 2021, LUBA remanded the decision to the Wheeler City Council ("City Council") for additional findings of fact.

Since that time, both the applicant and the City of Wheeler, have had numerous LUBA filings, and an Oregon Court of Appeal filing.

Botts Marsh redesigned its development into a fish processing and retail fish sales facility, which are uses permitted outright in the Water-Related Commercial and Industrial Zones.

The uses are, however, subject to design review by the city, and the city denied the application.

As a result of these actions, the Applicant filed a Federal lawsuit against the City of Wheeler claiming the city deprived Botts Marsh of its property rights, caused financial damages, and interfered with business opportunities and economic relationships.

The Federal lawsuit is pending, and both the applicant and the City of Wheeler are working through a mediation process.

The Applicant believes between the period of October 2019 up to the date of this application, the community has had opportunity in the city planning process.

2. Members of the Planning Commission shall represent a cross-section of the community, and shall be chosen in a fair and well publicized manner.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

3. Meetings shall be well publicized, and all planning decisions shall allow opportunities for citizen input.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

4. The City Council and Planning Commission shall respond to citizen concerns and comments through direct response at meetings, by letter, through meeting minutes, and other means as appropriate.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

5. Financial support for citizen participation shall be made available through the City budget.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

6. The Wheeler Planning Commission is the citizen involvement body for the community.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

7. The City Council may appoint additional committees to facilitate Citizen Involvement.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

8. For work within the Wheeler jurisdiction the Wheeler Planning Commission or another committee appointed by the City Council shall be used by the Oregon Department of Transportation as its citizen involvement committee.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

9. A visioning process is an important part of citizen involvement. A committee of citizens shall be appointed by the City Council to assist with development of the community vision plan every seven to ten years.

**Applicant Response:**

Applicant assumes City of Wheeler has conducted this process.

## GOAL 2: LAND USE PLANNING

### INTRODUCTION:

If the City is going to enact the priorities outlined in the Wheeler Vision Plan 2011 then its Comprehensive Land Use Plan must do more than just meet the state and federal requirements. It must meet the needs of the community as well. A plan that does not consider the community's vision and values will not effectively recognize the citizen's input. The policies adopted with any land use plan or decision need first to be vetted to ensure that they reflect the recommendations laid out in the Wheeler Vision Plan 2011.

**GOAL:** To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

### POLICIES:

1. In conjunction with affected regional, state, and federal agencies, the City agrees to assume cooperative responsibility for land use planning.
2. Changes in the comprehensive plan and implementing ordinances shall be adopted only after well-advertised public hearings have been held by the Planning Commission and City Council.
  - a. The City shall review the comprehensive plan every seven to ten years to ensure that it continues to reflect the community's needs vision.
  - b. An applicant may apply for a comprehensive plan amendment to the City. The application shall identify the reason for the request and provide findings of fact that identify how the request is or will be consistent with the comprehensive plan and any other applicable criteria.
  - c. At least 30 days' notice of the public hearing on any proposed language change shall be provided to citizens in the area and to affected districts and agencies.
3. The City shall cooperate with the school district to ensure that the growth of the City does not outstrip the district's ability to provide facilities. Subdivisions or other major developments that could generate large enrollment increases shall be permitted only after consideration of their impact on schools.

#### **Applicant Response:**

City of Wheeler has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Applicant applying the Recommendations laid out in the Wheeler Vision Plan 2011

1. Protect Natural Beauty.

Applicant's project will meet all minimum set back requirements along the Nehalem River.

**Applicant Response:**

The applicant is not requesting any increase in moorages spaces and will continually monitor and remove invasive species.

**Applicant Response:**

The applicant has sold Bott's Marsh Estuary, which is the property immediately to the north to the Lower Nehalem Community Trust, so that it will be protected in perpetuity.

2. Preserve Small Town Atmosphere.

**Applicant Response:**

The Applicant will follow all ordinances.

Applicant's square footage of building envelopes is only 40% of the total square footage of the property.

Applicant's design of the buildings will be reflective of the historical architectural values of the prior buildings.

3. Keep Town Safe and Functional.

**Applicant Response:**

Applicant is completing a site-specific transportation improvement project, as disclosed in the Transportation System Plan, page V-9:

- Waterfront Pedestrian and Circulation improvements. A recommendation for designating Marine drive as a street. Currently Marine Drive is not a public (or private) street but is used to access the waterfront and commercial/industrial uses along the waterfront.

Applicant's project will connect Marine Dr. and make it a circular improvement.

Applicant's project will include safety walkways and lighting.

Applicant's project will have sustainable practices for storm drainage and erosion control.

4. Improve Livability of Wheeler.

**Applicant Response:**

Applicant's project will include a hotel and commercial operations that requires that the property be maintained for appearance and not allow for undesirable debris and garbage.

The open spaces and setbacks along the Nehalem River will be assessable to the public to enjoy, which will include a walking path.

The project will be of new construction which will have attractive and updated curb side appeal.

5. Support a Vital Economy.

**Applicant Response:**

The project will be new construction and be an improvement to the commercial property's curb appeal of Wheeler.

The Hotel is anticipated to generate between \$120,000 - \$ 150,000 in Transit Room Tax dollars to the City of Wheeler, when it reaches sustainable occupancy.

When completed the Hotel and commercial tenants will be of type that will increase Wheeler's image and notoriety as a vacation and tourist destination.

The applicant strongly supports and encourages the City to consider an Urban renewal district that would bring several benefits to the community.

6. Enhance Citizen Enjoyment.

**Applicant Response**

The applicant has cooperated and worked with the adjacent business owners.

Applicant will cooperate and work with the Salmon Berry Rails and Trails Project.

The applicant's project includes a public walking trail.

The applicant has sold Bott's Marsh Estuary, which is the property immediately to the north to the Lower Nehalem Community Trust, so that it will be protected in perpetuity.

The applicant strongly supports and encourages the City to consider an Urban renewal district that would bring several benefits to the community.



## GOAL 3: AGRICULTURAL LANDS

### INTRODUCTION:

Wheeler does not include agricultural lands but has, both in history and vision, supported the community's need to provide food for itself and for its members who are less fortunate. As a result of the Wheeler Vision Plan 2011, a community garden has been developed at a low cost to participants and policies have been enacted that allow citizens to provide for their own sustenance. Supporting local and sustainable agriculture in our region is strongly encouraged by the community and will continue to be a priority into the foreseeable future.

GOAL: To preserve and maintain agricultural lands.

### POLICIES:

1. While Oregon Statewide Planning Goal 3 Agricultural Lands does not apply within the Urban Growth Boundary and Wheeler does not have agricultural zoned lands within its boundaries, the City supports and encourages City and countywide efforts to:
  - a. Support community and county goals to sustain agriculture in all its forms as a viable and thriving industry in Tillamook County.
  - b. Work with diverse partners to sustain agricultural lands.
  - c. Through policy create incentives, conditional uses, and other strategies to allow commercial food production within the City and UGB;
  - d. Continue to support policies and ordinances that allow residents opportunities to keep poultry and grow food producing plants such as:
    - i. Reductions in fees and licenses; and
    - ii. Allow residents reasonable watering provisions for food producing gardens during drought.
  - e. Increase local and countywide private and community gardens and food production opportunities;
  - f. Decrease food insecurity in the city and county through the increase of local sustainable food production;
  - g. Continue to increase support of community food banks:
    - i. Increase the amount of locally produced food donations and consumption; and Increase support of efforts to utilize local natural food sources and decrease food waste.

- h. Support implementation of farm to school food programs:
  - i. Support distribution systems to supply fresh locally produced foods to students and staff in area schools; and
  - ii. Promote sustainable farming through support of educational programs to teach gardening, farming and other skills to local youth.
  
- i. Work with other government and community organizations to sustain, preserve, and support local agriculture in all its forms including family farms, dairy ,meat ,poultry and other food producing enterprises.

**Applicant Response:**

The applicant is not developing any agricultural lands.

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## GOAL 4: FOREST LANDS

### INTRODUCTION:

During the review and updating of the Comprehensive Plan, the Wheeler Citizen Advisory Committee conducted surveys to determine how residents of Wheeler felt about certain aspects of the Forest Practices Act. Overwhelmingly the community did not believe that the current Forest Practices Act adequately protected them, or their health and welfare. As a result, Wheeler citizens ask that, as a community, we develop higher standards when it comes to the management and use of forestlands. This includes the recognition that current practices of the timber industry, including and not limited to the use of herbicides, including aerial application, harvesting near watersheds, directly impact fish and wildlife and the health and economic viability of communities like Wheeler.

### GOAL:

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources, and to provide for recreational opportunities and agriculture.

### POLICIES:

1. While Oregon Statewide Planning Goal 4 Forest Lands does not apply within acknowledged Urban Growth Boundaries, the City shall encourage the State Department of Forestry to strictly enforce the Forest Practices Act including practices pertaining to cutting, road building, and the use of herbicides in the Wheeler area, particularly within the community's watershed areas.
2. While there is no commercial timber land within the urban growth boundary of Wheeler, the vast majority of land that surrounds the City is privately owned land zoned for forestland use that is located within the Wheeler watershed. The City is concerned about logging activities that can cause adverse impacts to air, water, and land quality including slash burning, herbicides spraying, and clear cutting that overloads the capacity of the City stormwater system.

### **Applicant Response:**

Applicant's application and project does not include any Forest Lands.

## GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

### INTRODUCTION:

Protecting the natural beauty of Wheeler is the number one priority identified in the Vision. Community input has consistently supported putting the natural landscape, environment, small town atmosphere, and livability at the top of the priorities for Wheeler. As a result, the City seeks to increase ecologically friendly tourism and low impact recreational activities. Protection of the historic elements, recognizing indigenous cultural importance, preserving open space, improving parks and trails, and conservation of natural habitats is a cultural norm and valued in the community. Any land use policies or decisions need to reflect that value.

GOAL: To protect natural resources and conserve scenic and historic areas and open spaces. POLICIES:

1. The City recognizes the need to conserve open space and to protect natural and scenic resources to maintain ample spaces for outdoor recreation and preserve the natural environment; to provide park, facilities, and open space suitable for each segment of the population; to provide for the broadest range of suitable recreation opportunities; and to enhance community identity.

#### **Applicant Response:**

The applicant has sold Bott's Marsh Estuary which is the property immediately to the north to the Lower Nehalem Community Trust, so that it will be protected in perpetuity.

Applicant will have a 30-foot setback riparian zone which is greater than the required 25-foot riparian zone.

Applicant will allow public walking trail along the Nehalem River.

2. The City shall ensure that development shall make equitable contribution toward assuring that the appropriate amount of open space and recreation space needed within each residential neighborhood to enhance community identity is dedicated.

#### **Applicant Response:**

Applicant is not working in a residential zone.

3. Riparian vegetation within identified riparian zones shall be protected and retained. A fifteen-foot riparian zone measured from the ordinary high-water line is established on each bank of Zimmerman, Gervais, and Vosberg Creeks. A twenty-five-foot riparian zone measured from the mean higher high-water line or line of non-aquatic vegetation, whichever is most landward, is established adjacent to Nehalem Bay.

**Applicant Response:**

Applicant will have a 30-foot setback riparian zone which is greater than the required 25-foot riparian zone.

4. Proposals involving discharge into natural drainages shall make special precautions including larger stream setbacks, larger lot sizes, reduced lot coverage, holding ponds, or other methods approved by the City.

**Applicant Response:**

The applicant has designed over 4,000 square feet of bioswale systems that will capture and filter storm water before it enters the existing city storm water system. No storm water construction will occur in the 30-foot riparian zone.

All water discharge from buildings, either commercial or residential, will enter the City of Wheeler's sewer and sanitation system.

5. The City shall participate in and encourage the activities of the Lower Nehalem Watershed Council.

**Applicant Response:**

Applicant will participate with any activities with the City of Wheeler and Lower Nehalem Watershed.

6. In the Wheeler, Oregon Comprehensive Plan Background Report, the City conducted a resource inventory to ensure open space, protect scenic and historic areas, and natural resources for future generations, and promote healthy and visually attractive environments in harmony with the natural landscape character.

These areas are:

- a. Botts Marsh, at the north end of Wheeler, west of US Highway 101.
- b. Zimmerman Marsh, at the north end of Wheeler, east of US Highway 101.
- c. The lowland flood areas identified in Wheeler by the National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM).
- d. The wooded area between US Highway 101 and the Nehalem River from Paradise Cove 400 feet

- east.
- e. Steep banks along the Gamble Street to Hospital Road frontage.

**Applicant Response:**

Applicant has sold Bott's Marsh Estuary which is the property immediately to the north to the Lower Nehalem Community Trust, so that it will be protected in perpetuity.

7. Administration of inventoried resources shall be implemented through development ordinances. During application review, the economic, social, environmental, and energy consequences on the resource shall be considered as part of the decision process.

**Applicant Response:**

Applicant will comply with all development ordinances or other conditions/requirements placed by the City of Wheeler.

8. Where appropriate, resources shall be preserved to prevent erosion and sedimentation, provide support for anadromous fish habitat, provide upland bird habitat, protect steep slopes, mitigate geologic or flooding hazards, buffer conflicting land uses, and provide areas for passive or active forms of recreation.

**Applicant Response:**

Applicant has obtained the required 1200-C permit issued from the State of Oregon DEQ.

DEQ will approve of all erosion and sedimentation methods used on the property.

9. Where resources inventoried are also subject to inventory and possible protection under Goal 16 Estuarine Resources, and Goal 17 Coastal Shorelands, Goal 16 and Goal 17 shall be applied.

**Applicant Response:**

Applicant has complied with Goal 16 and Goal 17. (see discussion under Goal 16 and Goal 17)

## GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

### INTRODUCTION:

Wheeler has long struggled with the impact of a diminishing quality of air, water, and land resources, issues often created by entities and events outside of the community. The carrying capacity of the lands within our water shed have been strained by weather and impacted by industry and development. The citizens of Wheeler are subjected to aerial herbicides that private timber companies use without respect or accommodations for the health and welfare of the community.

Lack of resources, lack of protective regulations, and lack of dredging has resulted in a continuous decline in the quality of the shoreline and has dramatically impacted the economy of Wheeler as well as the natural beauty. Situated at the lower end of the Nehalem River, Wheeler has been repeatedly inundated with sediment and silt not just from natural erosion, but also from the actions of private industry and their lack of concern for the impact of their practices on the community or its economy.

The local economy has suffered as the shoreline adjacent to water-related businesses has filled with so much sediment that ten dock sand marinas are left sitting in the mud during low tides. These types of negative consequences need to be recognized and addressed both in the internal decision making for land use in Wheeler, and the external interaction the City has with state, county, and federal agencies.

GOAL: To maintain and improve the quality of the air, water and land resources of the state. POLICIES:

1. The City will cooperate in implementing state air and water quality standards. Of particular concern is the control of pollution from urban development and forest management practices.
2. The City will control storm runoff, sedimentation and erosion resulting from development through its adoption and implementation of appropriate ordinances, the subdivision ordinance, comprehensive plan policies for urban growth and public facilities, and zoning ordinance standards.
3. The City will cooperate with the Oregon Department of Environmental Quality to prevent noise pollution problems in the area.
4. The City's actions shall be consistent with state and federal hazardous waste regulations.
5. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land, and water resources of the planning area.

6. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, and aesthetics.

**Applicant Response:**

Applicant has designed and will implement all Federal, State and Local requirements for air, water and land resources, when required.



## GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

### INTRODUCTION:

Wheeler lies in a difficult zone for natural geological hazards due to our topography and climate. The City is vulnerable to the results of climate changes as they relate to rising sea levels and increased weather-related events. As a result, the City has worked diligently to reduce the risk to the citizens and properties within our limits by creating an approach to land use planning that reflects the need to have development that is accountable to sound geo-technical planning and design.

Wheeler is fortunate to be part of the Emergency Volunteer Corps of Nehalem Bay. The work of this group has resulted in an increased level of preparedness for natural hazards. The City also has a strong relationship with Tillamook County and has adopted a FEMA compliant Hazard Mitigation Plan to help address the consequences of hazard vulnerability. The City maintains a Stormwater Master Plan to help minimize impact from natural hazards.

GOAL: To reduce risk to people and property from natural hazards

### POLICIES:

1. For the purpose of identifying and mitigating geologic hazards the City shall require geologic site investigation reports prepared by appropriately qualified professionals that evaluate the risk to the site as well as the risk the proposed development may pose to other properties.

#### **Applicant Response:**

Applicant has obtained the required geological report and has, or will have, designed and complied with all requirements of the geo-technical report. (See provided geological report)

The property is listed in the FEMA - National Flood Insurance Map (map number; 41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

2. Site-specific geologic investigations may be required when appropriate to assure safe development:
  - a. For all proposals for divisions of land; and
  - b. When required by the building official; and
  - c. When required by the City to assure public safety and welfare; and
  - d. For grading, excavation, and/or the placement of fill in the development of streets and public rights-of-way; and
  - e. For the construction of utilities; and
  - f. Where ground disturbing activities are proposed; and
  - g. As required in the current Wheeler Zoning Ordinance.

**Applicant Response:**

Applicant has obtained the required geological report and has, or will have, designed and complied with all requirements of the geo-technical report. (See provided geological report)

The property is listed in the FEMA - National Flood Insurance Map (map number; 41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

3. When a geologic site investigation report is required, the report shall be prepared at the subject property owner's expense by an appropriately qualified professional engineer and certified engineering geologist licensed to work in the State of Oregon.

**Applicant Response:**

Applicant obtained a Phase II Environmental Site Assessment (prepared Parametrix Geo-Science) as part of an EPA Brownfields Assessment, in February 2017, which was part of the Conditional-Use Application originally filed. The applicant agreed to comply with all requirements of the geo-technical report.

An updated Environmental Site Assessment is being prepared by CHA, as part of the Brownfields Program. The applicant is requesting the City to approve the application with the condition of final approval of the completed report.

The property is listed in the FEMA - National Flood Insurance Map (map number; 41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

4. The geologic site investigation shall be prepared consistent with local, state, and federal criteria including the standards identified in the Wheeler Zoning Ordinance.

**Applicant Response:**

Applicant obtained a Phase II Environmental Site Assessment (prepared Parametrix Geo-Science) as part of an EPA Brownfields Assessment, in February 2017, which was part of the Conditional-Use Application originally filed. The applicant agreed to comply with all requirements of the geo-technical report.

An updated Environmental Site Assessment is being prepared by CHA, as part of the Brownfields Program. The applicant is requesting the City to approve the application with the condition of final approval of the completed report.

The property is listed in the FEMA - National Flood Insurance Map (map number;

41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

5. The geologic site investigation report shall be provided prior to permit approvals and prior to project commencement and shall be required as a condition of approval for public hearings where a geologic site investigation report will be required for the project.

**Applicant Response:**

Applicant obtained a Phase II Environmental Site Assessment (prepared Parametrix Geo-Science) as part of an EPA Brownfields Assessment, in February 2017, which was part of the Conditional-Use Application originally filed. The applicant agreed to comply with all requirements of the geo-technical report.

An updated Environmental Site Assessment is being prepared by CHA, as part of the Brownfields Program. The applicant is requesting the City to approve the application with the condition of final approval of the completed report

The property is listed in the FEMA - National Flood Insurance Map (map number; 41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

6. The geologic site investigation report shall provide stormwater drainage management recommendations consistent with the current Wheeler Storm Water Drainage Master Plan.

**Applicant Response:**

Applicant obtained a Phase II Environmental Site Assessment (prepared Parametrix Geo-Science) as part of an EPA Brownfields Assessment, in February 2017, which was part of the Conditional-Use Application originally filed. The applicant agreed to comply with all requirements of the geo-technical report.

An updated Environmental Site Assessment is being prepared by CHA, as part of the Brownfields Program. The applicant is requesting the City to approve the application with the condition of final approval of the completed report.

Applicant will design and implement any recommendations consistent with the current Wheeler Storm Water Drainage Master Plan.

7. The density of development allowed by the City within a zone shall be supported by the recommendations of the geologic site investigation report.

**Applicant Response:**

Applicant will comply with all density requirements.

8. The City encourages site design which utilizes the natural topography and vegetation including but not limited to the following techniques:
  - a. Flexible development approaches such as planned developments; and
  - b. Efforts shall be made to maintain streams in their natural state; and
  - c. Access roads and driveways should follow natural slopes and contours and need not be constructed in block patterns; and
  - d. In cases of undeveloped platted lands, the City supports property line adjustments and the replating of existing lot lines and/or public right-of-way consistent with natural features.

**Applicant Response:**

Applicant is not proposing to change the natural topography and will use native vegetation.

9. Within the Wheeler Special Flood Hazard Area (SFHA) designated by the National Flood Insurance Program (NFIP) Flood Insurance Rate Maps (FIRM):
  - a. The City shall ensure that all development is documented by the property owner as consistent with the requirements of the National Flood Insurance Program (NFIP); and
  - b. The property owner shall submit with any development application evidence that the proposed development will not increase flood hazards on adjacent property.

**Applicant Response:**

Applicant obtained a Phase II Environmental Site Assessment (prepared Parametrix Geo-Science) as part of an EPA Brownfields Assessment, in February 2017, which was part of the Conditional-Use Application originally filed. The applicant agreed to comply with all requirements of the geo-technical report.

An updated Environmental Site Assessment is being prepared by CHA, as part of the Brownfields Program. The applicant is requesting the City to approve the application with the condition of final approval of the completed report.

The property is listed in the FEMA - National Flood Insurance Map (map number; 41057C0209f, effective date-September 28, 2018) as a Zone X, which means it is not located within a 100-year flood plain.

10. The City identifies and plans for its natural hazards such as windstorms, winter storms, coastal and riverine floods, landslides, earthquakes and earthquake related hazards, tsunamis, erosion, and wildfires. The City may identify and plan for additional hazards.

**Applicant Response:**

Applicant will comply with any additional hazards the city may identify.

11. The City seeks to plan for resilience, response, and recovery regarding hazards including and not limited to the anticipated and historically cyclical Tsunami Hazard initiated by a Cascadia Subduction Zone earthquake.

**Applicant Response:**

Applicant will comply and participate with resilience, response, and recovery regarding hazards including and not limited to the anticipated and historically cyclical Tsunami Hazard initiated by a Cascadia Subduction Zone earthquake.

12. The City shall seek to adopt maps, plans, inventories, policies, and implementing measures that reduce risk to people and property from natural hazards.

**Applicant Response:**

Applicant will comply with any city requirements.

13. The City shall give special attention to emergency access and evacuation when making development decisions.

**Applicant Response:**

Applicant will comply with any city requirements.

14. The City shall seek to devote natural hazard areas as open space or other low intensity uses in so far as such measures will mitigate natural hazards and will maintain public safety and welfare.

**Applicant Response:**

Applicant will comply with any city requirements.

15. The City shall adopt, maintain, and coordinate their local Natural Hazard Mitigation Plan with local, state, and federal agencies.

**Applicant Response:**

Applicant will comply with any city requirements.

16. The City shall coordinate with regional planning efforts for emergency preparedness, response, recovery and mitigation.

**Applicant Response:**

Applicant will comply with any city requirements.

17. The City shall respond to new hazard inventory information within 36 months if notified to take such action by the Oregon Department of Land Conservation and Development (DLCD) unless such time to respond is extended by DLCD.

**Applicant Response:**

Applicant will comply with any city requirements.

## GOAL 8: RECREATIONAL NEEDS

### INTRODUCTION:

The Wheeler Vision Plan 2011 clearly outlines how strongly Wheeler citizens support developing and sustaining environmentally friendly recreational opportunities that protect and improve the incredible views that our community is known for. This community strongly supports the idea of developing parks, biking, walking, and water trails, and other water related recreation.

Shoreline improvement through dredging is essential to maximizing the recreational opportunities in Wheeler. In addition, improvements to access public facilities and services to accommodate recreational users need to be supported and pursued by the City.

**GOAL:** To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities.

### POLICIES:

1. New subdivisions and planned unit developments must make provision for a suitable amount of open space and/or recreation facilities.

**Applicant Response:**

Applicant has designed for open space.

2. Involvement of local individuals and groups in the donation of land, labor, funds, or equipment for the improvement of recreation facilities is encouraged.

**Applicant Response:**

Applicant is a strong supporter of recreation and will participate in local improvement of recreation facilities.

3. Developed public recreation facilities within the City limits are needed, including a waterfront facility and a community park, and should be developed during the next ten years.

**Applicant Response:**

Applicant is a strong supporter of recreation and will participate in local improvement of recreation facilities.

4. The City will coordinate its park and recreation planning with that of the Oregon Parks and Recreation Department and/or the State Marine Board.

**Applicant Response:**

Applicant has no comment.

5. The City will develop an Inventory of Historic Places with the assistance of the State Historic Preservation Office, the National Register of Historic Places, and the recommendations of the State Advisory Committee on Historic Preservation.

**Applicant Response:**

Applicant has no comment.

6. The City should consider the establishment of a parks and recreation sinking fund to accumulate matching funds for State or Federal programs.

**Applicant Response:**

Applicant has no comment.

7. If archeological sites are identified within the City, the City will coordinate with the State Historic Preservation Office in establishing a review procedure that meets the requirements of applicable criteria.

**Applicant Response:**

Applicant has no comment.



## GOAL 9: ECONOMIC DEVELOPMENT

### INTRODUCTION:

Supporting a vital economy is one of the top priorities listed in the Vision. In order for Wheeler to sustain a vibrant and successful economy of business owners, the City, staff, and citizens need to come together to create a downtown revitalization plan. Such a plan would allow the community to set the direction and focus to realize the recommendations of the vision, seek funding, increase the number of businesses, events, and undertake other efforts that would attract visitors and provide a sustainable foundation for Wheeler.

While developing new industries and businesses in Wheeler, the City also needs to make decisions that allow the existing businesses to thrive and to be sustainable. And while recreation and tourism industries are a cornerstone of our economy, Wheeler needs to explore what kind of economic drivers our community needs and wants and how we can sustain those endeavors once they are in place.

For instance, to address the needs of our aging population, the City should support movement towards creating housing, services and living arrangements that provide care and support to our citizens aging in place, thus adding vital jobs that are essential to our economy.

Providing support for economic development, as part of a land use plan, encumbers the City to implement policies that ensure opportunities for the building of multi-family, affordable, and accessible housing necessary to support both local workers and home-based businesses.

GOAL: To provide a variety of economic opportunities vital to the health, welfare, and prosperity of Wheeler.

### POLICIES:

1. Economic developments shall contribute to a stable and healthy economy for the City of Wheeler.

#### **Applicant Response:**

Applicant is proposing a development that includes a new hotel and a restaurant space that will support long term needs.

Applicant is not interested in acquiring short-term tenants.

The Hotel is projected to generate approximately \$120,000 to \$150,000 of additional room tax revenues to the City of Wheeler.

The businesses that will be located on the property will be of the nature of not creating industrial noise or pollution.

2. The economic land resource of Wheeler shall be developed in a manner which encourages beneficial long-term use.

**Applicant Response:**

See above applicant response.

3. Commercial and industrial development in any zone shall be subject to design review by the Planning Commission.

**Applicant Response:**

Applicant will integrated the design of the buildings to reflect some of the historical features of prior buildings in Wheeler, Oregon.

Applicant will comply with the city's design review.

4. The City will strengthen and enhance business by appropriately zoning designated urban areas.

**Applicant Response:**

Applicant will comply with zoning uses.

5. Economic development shall be compatible with existing and allowable uses.

**Applicant Response:**

Applicant will comply with zoning uses.

6. The city will encourage low-impact home-based businesses, occupations, and cottage industries that do not disrupt and are not detrimental to the neighborhood

**Applicant Response:**

The applicant is not proposing a development in any neighborhood.

7. The City will designate the required public facilities and services necessary to support proposed economic development.

**Applicant Response:**

Applicant will comply with approved Planning Commission requirements.

8. The City shall seek input from local businesses and consider the economic impacts of proposed programs, regulations, and decisions.

**Applicant Response:**

Applicant will comply with approved Planning Commission requirements.

9. The City supports new business and the expansion and increased productivity of existing businesses as a means to strengthen the local and regional economy.

**Applicant Response:**

Applicant is proposing a development that includes a new hotel and restaurant that will support long-term needs.

Applicant is not interested in acquiring short-term tenants.

The Hotel is projected to generate approximately \$120,000 to \$150,000 of additional room tax revenues to the City of Wheeler.

The businesses that will be located on the property will be of the nature of not creating industrial noise or pollution.

10. The City supports and will coordinate with volunteer, private, and governmental bodies operating in the planning area that carry out local economic plans and programs.

**Applicant Response:**

Applicant will support and participate with volunteer, private, and governmental bodies operating in the planning area that carry out local economic plans and programs.

11. The City shall designate sites of suitable size, type, location, and service levels to meet economic development opportunities and needs.

**Applicant Response:**

Applicant will follow city requirements.

12. When considering economic development opportunities, the City will assess the social, environmental, energy, and economic impacts upon the resident population.

**Applicant Response:**

Applicants will follow city requirements.

13. Planning, conservation, and development actions within the planning area shall not exceed the carrying capacity of air, land, and water resources.

**Applicant Response:**

Applicant will follow city requirements.

14. The City may support strengthening economic opportunities through such methods as:

- (a) Appointment of an economic opportunities committee or other such ad hoc committees established by the City Council.
- (b) Preparation of economic opportunities analyses or plans.
- (c) Tax incentives and disincentives.
- (d) Land use controls and ordinances.
- (e) Capital improvement.
- (f) Fee and less than fee acquisition technique.

**Applicant Response:**

Applicant will follow city requirements.

## GOAL 10: HOUSING

### INTRODUCTION:

A major problem for Wheeler and the County continues to be the lack of available long-term rentals, workforce, low income, and affordable housing, and access to financing options to purchase property. In order to sustain a workforce, for the downtown business core and economic base of the City, housing needs must be addressed. A committee appointed to work on this issue should be created so the City Council can plan for housing need projections. The City should gather data on local housing information and availability, to assess the extent of those needs.

GOAL: To provide for housing needs with a broad range of housing opportunities.

### POLICIES:

1. The City encourages public and private efforts to conserve and rehabilitate existing housing.
2. The City will zone adequate land to meet identified future housing needs for a broad range of housing types including single-family attached and detached homes, manufactured homes, modular homes, duplexes, and multi-family dwellings.
3. The City supports the efficient development of housing and land to minimize environmental impacts and provide public services in a cost-effective manner.
4. The City encourages sustainable, resilient, and energy efficient development.
5. The City encourages the use of design principles including balance, proportion, unity, emphasis, and rhythm.
6. Development standards shall provide for open space, access, and connections to the community.
7. The City supports development of housing in conjunction with commercial development to provide housing diversity and security.
8. The City will ensure compliance with federal and state fair housing laws.
9. The City will allow for accessory dwelling units in residential zones in compliance with zoning ordinance standards.

10. The City should maintain an updated buildable lands inventory.
11. The City shall evaluate opportunities to support workforce, low-income, and affordable housing.

**Applicant Response:**

Applicant recognizes the current housing challenges in Tillamook County and is currently working for a zone change that will allow residential housing on the property immediately adjacent to the north.

Current zoning restricts the property from being entirely a residential housing project.

## GOAL 11: PUBLIC FACILITIES AND SERVICES

### INTRODUCTION:

The City needs to continue its support of the regional drinking water distribution and wastewater systems currently in place, local recycling efforts being provided, the county's solid waste distribution centers, and other essential services. Wheeler has prioritized the building of a community center or gathering place and updates to City Hall as important public facilities for the citizens.

GOAL: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

### POLICIES:

1. Annexation shall be required prior to City approval of development.
2. The City shall endeavor to work with property owners to continuously maintain public facilities and services.
3. The extension of sewer, water, and storm water drainage services required by the City shall be at the subject property owner's expense.
4. Extension of public facilities and services, including but not limited to water, sewer, and the storm water drainage system, shall be provided in an orderly and efficient manner.
5. Adequate storm water drainage facilities, approved by the City, shall be part of all development.
6. Proposals involving stormwater discharge shall be consistent with the capacity of existing, planned, and projected facility needs in the area.
7. Water lines in proposed developments shall be adequately sized to meet future needs including fire flow requirements at the projected density and usage.
8. Land uses and densities developed in the urban service area shall be coordinated with, and shall not exceed the capacity of, existing and planned public facilities.
9. The City shall seek opportunities to implement public facilities capital improvement plans.
10. The City shall adopt system development charges where necessary to ensure equitable contributions to the development of public facilities.

11. The City supports solid waste management and recycling facilities.
12. The City will coordinate with the Nehalem Bay Wastewater Agency, the Nehalem Bay Regional Water Board, and the Nehalem Bay Regional Fire District in a manner consistent with applicable criteria and documents of agreement.
13. The City shall cooperate with the School District to ensure that growth of the City does not outstrip the Districts ability to provide facilities. Subdivisions or other major developments that could generate large enrollment increases shall be permitted only after consideration of their impact on schools.

**Applicant Response:**

Applicant will comply with all public service requirements.



## GOAL 12: TRANSPORTATION

### INTRODUCTION:

The State of Oregon does not currently have a transportation plan. Without a state level plan the needed repairs and maintenance of roads is not addressed comprehensively and therefore falls to each county and city. The expense of such upkeep and development are often cost prohibitive to the City. As a result, Wheeler should create its own transportation plan to address the needs of the community. The **Wheeler Vision Plan 2011** clearly prioritized improving public safety by providing off-street bike and pedestrian trails and increasing an intercity trail system. These issues must be included in any long range planning the City undertakes to improve access to funding that is often limited and competitive.

GOAL: To provide and encourage a safe, convenient and economic transportation system.

### POLICIES:

1. The City supports efforts to provide a broad range of transportation options for all users.

**Applicant Response:**

Applicant has completed a site-specific transportation improvement project, as disclosed in the Transportation System Plan, page V-9:

- Waterfront Pedestrian and Circulation improvements. A recommendation for designating Marine drive as a street. Currently Marine Drive is not a public (or private) street but is used to access the waterfront and commercial/industrial uses along the waterfront.

Applicant's project will connect Marine Dr. and make it a circular improvement.

Applicant's project will include safety walkways and lighting.

Access to the property is off Highway 101, via an approved ODOT permit.

2. The City shall seek to maintain a multi-modal transportation system plan to provide and strengthen safe and efficient transportation connections between the highway, the community, the downtown, and the waterfront.

**Applicant Response:**

Applicant has designed for efficient and safe connections between the highway, the community, the downtown, and the waterfront. (see attached site plan)

3. The City shall provide clear standards for highway and street construction projects.

**Applicant Response:**

Applicant will comply with City standards.

4. Street developments shall be designed consistent with city standards to create a minimal need for cutting and filling.

**Applicant Response:**

Applicant will comply with City standards.

5. The City shall maintain a street master plan.

**Applicant Response:**

Applicant will comply with City standards.

6. Where the City determines that street standards cannot be met, the City Council may approve an alternative design if appropriate support is provided by a site investigation report and engineering recommendations.

**Applicant Response:**

Applicant will comply with City standards.

7. The City shall be notified prior to the installation of any underground utility in a City right-of-way. The City will require the property owner and/or their agent(s) authorized by the City to be responsible for the cost of improving or restoring the road consistent with City standards.

**Applicant Response:**

Applicant will comply with City standards.

8. Additional access points to US Highway 101 shall be discouraged including those within new residential developments. Access to commercial uses should be provided by a consolidated access point.

**Applicant Response:**

Applicant is not requesting an additional access points to or from Highway 101.

9. The City will participate in Transportation Studies within the Wheeler jurisdiction with the intention of providing safer and more efficient highway transportation through Wheeler.

**Applicant Response:**

Applicant will comply with City requirements.

10. The City of Wheeler 2006 Transportation System Plan is part of the Comprehensive Plan.

**Applicant Response:**

Applicant will comply with City requirements.

11. Future improvement plans should not preclude passenger rail services to Wheeler.

**Applicant Response:**

Applicant will comply with City requirements.

12. To enhance public safety and recreational opportunities the City supports the development of the planned regional multiuse bicycle and pedestrian Salmonberry Trail designed to pass through the City by utilizing

the Port of Tillamook Bay rail right-of-way and/or by sharing portions of local vehicular streets or US Highway 101.

**Applicant Response:**

Applicant has already gone on record of support of the Salmonberry Trial.

13. When transportation planning or development work is undertaken within the Wheeler jurisdiction, the Wheeler Planning Commission or another committee designated by the City Council shall be used by the Oregon Department of Transportation as its citizen involvement committee.

**Applicant Response:**

Applicant will comply with City requirements.

14. The Oregon Department of Transportation (ODOT) shall coordinate any Transportation Studies, Transportation System Plans, and highway improvements within the City jurisdiction with the City and the Port of Tillamook Bay Railroad to ensure that their combined improvement plans are consistent with the criteria in Policies 12 and 15 (a-i).

**Applicant Response:**

Applicant will comply with City requirements.

15. Transportation improvement plans shall address the following considerations:
- a. The enhancement of pedestrian and vehicular access across Highway 101;
  - b. The maintenance or improvement of parking facilities along Highway 101;
  - c. The minimization of short-term disruptions which would adversely affect the business and residential areas of Wheeler;
  - d. The enhancement of the long-range viability of the downtown and waterfront areas;
  - e. The minimization of noise and air pollution impacts on adjacent areas;
  - f. The provision of appropriate landscaping;

- g. The protection of views across Nehalem Bay and surrounding area;
- h. The enhancement of access to and along the waterfront; and
- i. Opportunities to improve the safety of the coastal bike route including but not limited to such means as: constructing separate bike lanes, widening the highway shoulders, or diverting bike traffic.

**Applicant Response:**

Applicant has completed a site-specific transportation improvement project, as disclosed in the Transportation System Plan, page V-9:

- Waterfront Pedestrian and Circulation improvements. A recommendation for designating Marine drive as a street. Currently Marine Drive is not a public (or private) street but is used to access the waterfront and commercial/industrial uses along the waterfront.

Applicant's project will connect Marine Dr. and make it a circular improvement.

Applicant's project will include safety walkways and lighting.

Access to the property is off Highway 101, via an approved ODOT permit.

Applicant will comply with city requirements.

Applicant will improve the appearance of the access to and from Highway 101.

Applicant has designed the project to maximize the view corridors from Highway 101.

Applicant's parking is west of Highway 101 and has been designed to not allow any parking adjacent to Highway 101.

## GOAL 13: ENERGY CONSERVATION

### INTRODUCTION:

Wheeler's Vision strongly emphasizes protecting the environment, livability, and natural beauty of our community. Therefore, the City should include policies that encourage energy conservation and use of alternative sources of energy in its long-term planning for development.

GOAL: To conserve energy. POLICIES:

1. The City promotes domestic energy conservation efforts, including:
  - a. in building construction;
  - b. efforts of organizations to weatherize and insulate homes of low-income persons;
  - c. bicycle and pedestrian access within the City;
  - d. alternative energy sources; and
  - e. efforts to prevent sprawl.

### **Applicant Response:**

Applicant will be applying sustainable construction and operational best practices.

Applicant will encourage their tenants to follow sustainable and LEED practices.

## GOAL 14: URBANIZATION

### INTRODUCTION:

Wheeler monitors development in the unincorporated rural development lands within six miles of the Urban Growth Boundary. While state law now supersedes the City of Wheeler's Charter that requires voter approved annexation, this community continues to strongly support such votes prior to annexing property into the City. Wheeler will follow its ordinances, goals, and policies and comply with all laws to achieve urbanization goals.

### GOAL:

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide livable communities.

### POLICIES:

1. The City shall maintain an urban growth boundary to provide for urban development needs and to separate urban from rural land.
2. The City shall have the responsibility for making land use decisions within the Wheeler Urban Growth Boundary.
3. The City shall cooperate with Tillamook County and regional service providers pursuant to intergovernmental agreements.
4. Annexation shall be required prior to City approval of development.
5. The City shall use the Comprehensive Plan and implementing measures to manage the use and division of land and maintain its potential for planned urban development.
6. The City shall ensure the efficient and logical extension of urban services to urban growth boundary parcels.
7. Parcels of urban growth boundary land that are annexed to the City shall be of adequate dimension to enable the logical and efficient extension of services.
8. The type, design, location, and phasing of public facilities and services and transportation improvements should be factors in directing urban expansion.

9. Financial incentives should be provided to assist in maintaining the character of lands adjacent to urbanizable areas.
10. Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account:
  - a. the growth policy of the area;
  - b. the needs of the forecast population;
  - c. the carrying capacity of the planning area; and
  - d. open space and recreational needs.
11. Plans providing for the transition from rural to urban land use should take into consideration as a major determine an the ~~carrying~~ capacity the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
12. The location of the urban growth boundary and changes to the urban growth boundary shall be determined by evaluating alternative boundary locations consistent with applicable laws and the following factors:
  - a. efficient accommodation of identified land needs;
  - b. orderly and economic provision of public facilities and services;
  - c. comparative environmental, energy, economic, and social consequences; and
  - d. compatibility of the proposed uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.
13. The establishment and change of the urban growth boundary shall be based on the following:
  - a. Demonstrated need to accommodate long range urban population consistent with a 20- year population forecast coordinated with affected local governments; and
  - b. Demonstrated need for housing, employment opportunities, livability, such as public facilities, streets or roads, schools, parks or open space, or any combination of need categories identified by land use needs analysis.
14. Prior to expanding an urban growth boundary, the City shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.
15. Annexation requests shall be processed by the City in compliance with applicable laws.



## GOAL 15: WILLAMETTE RIVER GREENWAY

### INTRODUCTION:

The City is not required to address Oregon Statewide Planning Goal 15 Willamette River Greenway as the management of the regulatory Willamette Greenway does not influence development in Wheeler. However, the City finds that Wheeler does share similar river front development characteristics to those of the Willamette Greenway. Therefore, the City reviewed Oregon Statewide Planning Goal 15 and its policies in the preparation of this Goal 15 statement.

GOAL: The City endeavors to support efforts to implement policies consistent with Oregon Statewide Planning Goal 15 as it seeks to protect, conserve, enhance, and maintain suitable ecologic, hydrologic, habitat, scenic, historic, economic, agricultural, and recreational qualities of lands along the Nehalem River.

### **Applicant Response:**

Applicant is not working in the Willamette River Greenway.

## GOAL 16: ESTUARINE RESOURCES

### INTRODUCTION:

Wheeler citizens strongly support the protection and enhancement of natural features that include estuaries and wetlands. The Nehalem Bay area has a rich and diverse estuarine environment and its protection should be prioritized in the development and planning for land use in our area.

### GOAL:

To recognize and protect the unique environmental, economic, and social values of the Nehalem Bay Estuary Complex and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of estuarine resources.

### **Applicant Response:**

Applicant has and will continue to protect and enhance the estuarine resources.

### Bott's Marsh Estuary - (adjacent property immediately to the north).

Applicant has sold Bott's Marsh Estuary which is the property immediately to the north to the Lower Nehalem Community Trust, so that it will be protected in perpetuity.

Applicant will comply with all setback requirements from the estuary and will protect the riparian zone which will include native plantings.

### Nehalem River - Adjacent property to the west.

Applicant will comply with all setback requirements from the estuary and will protect the riparian zone which will include native plantings.

Applicant has contacted the Corp of Engineers and has disclosed no dredging or filling will occur in the Corp of Engineers jurisdiction.

Applicant has contacted the Division of State Lands (DSL) and hired outside professional to establish the Mean High-Water Line. No activity will occur in the Division of State Lands jurisdiction.

Applicant has contacted the Department of Environmental Quality (DEQ) has hired outside professional to establish Highest Tide Line. Applicant has completed the required 1200-C permit application for conduction work in the DEQ jurisdiction.

Property to the South - Darts Marine Repair

No estuary exists.

Property to the East - Port of Tillamook Railroad Right away.

No estuary exists.

## GOAL 17: COASTAL SHORELANDS

### INTRODUCTION:

The Vision clearly outlines the citizens of Wheeler's priority of protecting the natural beauty and environment surrounding the community. Planning for development in the city or surrounding unincorporated areas of the county needs to address the protection and enhancement of the ocean shorelands and the Nehalem Bay, river, and adjacent estuaries.

### GOALS:

1. These Coastal Shoreland Goals establish priorities for the identification and use of coastal shoreland areas.
2. The Oregon Coastal Shoreland Goal states that, based upon inventories, Comprehensive Plans for coastal areas adjacent to the ocean, estuaries, or coastal lakes shall identify the coastal shorelands. These coastal shoreland areas are to include at least:
  - a. Areas subject to ocean flooding and lands within 100 feet of the ocean shore or within 50 feet of an estuary or coastal lake.
  - b. Adjacent areas of geologic instability where the geologic instability is related to or will impact a coastal water body.
  - c. Natural or man-made riparian resources;
  - d. Areas of significant shoreland or wetland biological habitat whose habitat quality is primarily derived from or related to the association with coastal water areas.
  - e. Areas necessary for water-dependent and water-related uses including dredged material disposal and mitigation sites.
  - f. Areas of exceptional aesthetic or scenic quality; and
  - g. Coastal headlands.
3. The Comprehensive Plan Background Report describes how the Coastal Shoreland Boundary for Wheeler was established and mapped to identify the coastal shoreland areas. The waterward extent of the Shoreland area is the line of non-aquatic vegetation or, where such a line cannot be accurately determined, mean higher high water.
4. The City seeks to conserve, protect, where appropriate develop, and where appropriate restore, the resources and benefits of all coastal shorelands recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation, and aesthetics.
5. The City finds that there are no coastal shoreland areas in Wheeler especially suited for water – dependent development.

6. The management of these shoreland areas shall be with the intent to be:
  - a. compatible with the characteristics of the adjacent coastal waters;
  - b. to reduce the hazard to human life and property; and
  - c. to reduce the adverse effects upon water quality and fish and wildlife habitat resulting from the use and enjoyment of Oregon's coastal shores.
7. The Coastal Shoreland Goal establishes general priorities for the overall use of coastal shoreland areas.
8. In the Wheeler Comprehensive Background Report, the City conducted a resource inventory to ensure open space, protect scenic and historic areas, and natural resources for future generations, and promote healthy and visually attractive environments in harmony with the natural landscape character. These areas are:
  1. Botts Marsh, at the north end of Wheeler, west of US Highway 101.
  2. Zimmerman Marsh, at the north end of Wheeler, east of US Highway 101.
  3. The lowland flood areas identified in Wheeler by the National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM).
  4. The wooded area between US Highway 101 and the Nehalem River from Paradise Cove 400 feet east.
9. Administration of inventoried resources shall be implemented through development ordinances. During application review, the economic, social, environmental, and energy consequences on the resource shall be considered as part of the decision process.
10. Where appropriate, resources shall be preserved to prevent erosion and sedimentation, provide support for anadromous fish habitat, provide upland bird habitat, protect steep slopes, mitigate geologic or flooding hazards, buffer conflicting land uses, and provide areas for passive or active forms of recreation.
11. Where resources inventoried are also subject to inventory and possible protection under Goal 16 Estuarine Resources, and Goal 17 Coastal Shorelands, Goal 16 and Goal 17 shall be applied.

#### POLICIES:

1. Promote uses which maintain the integrity of estuaries and coastal waters.

#### **Applicant Response:**

Applicant is requesting a commercial development consisting of a hotel and restaurant. All uses will comply with riparian setbacks and protection of riparian zones.

2. Maintain and enhance historic, unique and scenic waterfront development allowing for water- related and non-water-related uses consistent with community vision and economic development goals.

**Applicant Response:**

Applicant will designed the buildings with historical features of prior buildings.

Applicant has followed the goals and recommendations of the City of Wheeler’s Vision Plan and City of Wheeler waterfront Development Plan.

3. Use standards shall be set forth under pertinent development standard provisions of the Wheeler Zoning Ordinance.

**Applicant Response:**

Applicant has is complying with development standards of the Wheeler Zoning Ordinance.

4. All new waterfront development shall, where appropriate, provide public access to the water.

**Applicant Response:**

Applicant has designed a public walking path along the river.

5. Public access to publicly owned shorelands shall be provided, maintained, and improved wherever possible, consistent with the authorized use.

**Applicant Response:**

Applicant will be responsible for maintenance in public access areas.

6. Riparian vegetation shall be maintained and, where appropriate, restored and enhanced.

**Applicant Response:**

Applicant will be responsible for maintenance in the riparian zones.

7. The City encourages dedication of public access areas to the City as public rights-of-way as a method of alleviating private property owner concerns about maintenance, management, tax and personal

liability.

**Applicant Response:**

Applicant will be responsible for maintenance, management, tax and personal liability of property owned by the applicant, or successors.

8. Land-use management practices and non-structural solutions to problems of erosion are preferred to structural solutions. Where shown to be necessary, erosion control structures such as riprap shall be designed to minimize adverse impacts on water currents, erosion and accretion pattern, and on adjacent property.

**Applicant Response:**

Applicant is not conducting any activities in the water currents.

9. The primary goal of the City is to develop, adopt, and implement a Waterfront Revitalization Plan.

**Applicant Response:**

Applicant has followed the City's Waterfront Development Plan.

10. A primary purpose of the Waterfront Revitalization Plan is to ensure that the Wheeler Waterfront is managed as a critical economic resource to stimulate and support the local economy consistent with the goals of the community.

**Applicant Response:**

Applicant has followed the City's Waterfront Development Plan.

11. The Wheeler Waterfront Revitalization Plan area shall include at a minimum the entire waterfront between the Nehalem River and the properties on the block fronting the east side of US Highway 101.

**Applicant Response:**

Applicant has followed the City's Waterfront Development Plan.

12. The Waterfront Revitalization Plan shall incorporate or use as reference all applicable existing plans and inventories such as any biologic, geographic, topographic, transportation-oriented, and land use master

plan inventories.

**Applicant Response:**

Applicant has followed the City's Waterfront Development Plan.

13. The Waterfront Revitalization Plan shall be implemented through the comprehensive plan policies and development ordinances.

**Applicant Response:**

Applicant has followed the City's Waterfront Development Plan.

14. The Waterfront Revitalization Plan shall reflect an appropriate mix of water-related commercial and recreational activities and non-water related commercial or mixed-use commercial-residential uses.

**Applicant Response:**

Applicant has complied with this policy.

15. The Waterfront Revitalization Plan shall seek to protect the natural beauty and small-town atmosphere, preserve views, provide a trail system of public access, support the ecology and navigability of the river and estuary, and reflect the importance of fishery, trade, recreation, and lodging services.

**Applicant Response:**

Applicant has complied with this policy



## GOAL 18: BEACHES AND DUNES

### INTRODUCTION:

The City is not required to address Oregon Statewide Planning Goal 18 Beaches and Dunes as there are no beaches and dunes within the current Wheeler jurisdiction. However, as Wheeler is located along the Nehalem River, which is tidally affected and adjacent to the beaches and dunes of the Pacific Ocean, the City is affected by development associated with beaches and dunes and by Tsunami Hazard. Therefore, the City adopts this Goal 18 as it seeks to ensure that development with the potential to affect Wheeler is consistent with Goal 18 Beaches and Dunes Policies.

### GOAL:

To support the conservation, protection, where appropriate development, and where appropriate restoration of the resources and benefits of coastal beach and dune areas consistent with their natural limitations and ecological, recreational, aesthetic, water resource, and economic values.

### **Applicant Response:**

Applicant does not have any beaches or dunes, non-applicable.

## GOAL 19: OCEAN RESOURCES

### INTRODUCTION:

The City is not required to address Oregon Statewide Planning Goal 19 Ocean Resources. However, all actions by local state and federal agencies that are likely to affect the ocean resources and uses of Oregon's territorial sea are required to be developed, and activities conducted to conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social values and benefits and to give a higher priority to the protection of renewable marine resources – i.e. living marine organisms – than to the development of non-renewable ocean resources.

The City finds that due to its location and proximity to the Pacific Ocean it is potentially affected by the quality of ocean resources within areas subject to the Goal. Therefore, in support of Goal 19 Ocean Resources, the City adopts this Goal 19.

### GOAL:

The City supports the conservation, where appropriate development, and where appropriate restoration of marine resources and ecological functions consistent with the purpose of providing long term ecological, economic, and social values and benefits for present and future generations.

### **Applicant Response:**

Applicant does not believe it involves any ocean resources, but will comply with any city requirements, if applicable.

## **II. The proposed use of the site and design of the project will be compatible with permitted uses in the area.**

### **Applicant Response:**

Applicant believes that many, if not most of the outright zone uses allowed in an Industrial commercial are obsolete due to factual and historical changes in the economies of the Oregon coast. i. e. Forestry and fishing are no longer the major economic driving factors.

Additionally, those industries tend to have higher noise and other unsustainable challenges that place extra burdens on coastal communities.

The applicant's conditional uses of a hotel, and restaurant are in direct line with the City of Wheeler's Vision Plan and Waterfront Development Plan.

The property is currently vacant land, lying west of the railroad (which has a rail rider pedaling business located on it) and north of a small engine and marine repairs business. The applicant believes that the conditional uses will not be of any conflict with the other uses in the area.

**III. The proposed use of the site and design of the project minimizes adverse impacts to the site and adjacent areas.**

Section 15.040. Application.

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

1. Legal description of the affected property.

**Applicant Response:**

See previously provided legal description

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

**Applicant Response:**

See provided site plan.

3. A sketch, showing the location of existing trees and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site.

**Applicant Response:**

See provided site plan.

4. Site analysis data indicating square footage of the site, building coverage, landscaped areas, and parking.

**Applicant Response:**

See provided "Schedule of Site Analysis".

5. Other information, as requested by the Planning Commission.

**Applicant Response:**

Will provide as required.

Section 15.050. Performance Bond.

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

**Applicant Response:**

Will provide as required.

Section 15.060. Compliance with Conditions of Approval.

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

**Applicant Response:**

Applicant will comply.

Section 15.070. Time Limit for Conditional Uses.

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

**Applicant Response:**

Applicant will comply.

Section 15.080. Limitations on Refiling of Application.

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

**Applicant Response:**

Applicant is requesting approval.

Section 15.090. Basic Conditional Use Standards.

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

1. A need exists for the use at the proposed location.

**Applicant Response:**

The proposed location is located away from residential communities and lies adjacent to the central business district.

The City of Wheeler has changed from a logging/fishing community to more of a tourist industry.

The location of the property with its attractions make it a logical location for a hotel. The hotel will keep travelers in the community.

The hotel will have a direct economic impact to the community, by creating jobs, operating costs paid to local merchants, room tax dollars paid to the city.

2. The use will not overburden the following public facilities and services: water, sewer, storm drainage, electrical services, fire protection, and schools.

**Applicant Response:**

Applicant with review with all public services.

3. The site layout shall provide an adequate amount of space for yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by city ordinances or desired by the applicant.

**Applicant Response:**

Applicant has designed the site plan and design to comply with city ordinances. (See site plan)

4. The topography, soils, and other physical characteristics of the site are appropriate for the use.

**Applicant Response:**

Applicant will obtain an updated geotechnical report addressing soils.

Applicant has had conferences with, Division of State Lands, Department of Environmental Quality and Corp of Engineers to address the property characteristics.



5. The use will not create traffic congestion on nearby streets.

**Applicant Response:**

Applicant has had a conference with Oregon Department of Transportation and has been advised that the proposed use will not create any additional traffic problems.

Oregon Department of Transportation has given applicant a copy of the Highway Access Permit.

6. The proposed use will be compatible with the general character of the area due to the architectural style, building materials and colors, landscaping, fencing, and/or other building or site characteristics.

**Applicant Response:**

Applicant will design the buildings with similar architectural features that were included in the historical buildings.

Building materials and colors will be of natural tones and follow the recommendations in the City of Wheeler Riverfront Development report.

Section 15.100. Specific Conditional Use Standards.

In addition to the standards of the zone in which the conditional use is located and the general standards of Section 15.090, specific conditional uses shall meet the following standards, where applicable:

**Applicant Response:**

Applicant is not requesting a specific use.



