

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, June 22, 2015**

**Commissioners Present:** Jim Patrick, Lee Hardy, Rod Croteau, Mike Franklin, and Gary East.

**Commissioners Absent:** Bob Berman and Bill Branigan (*both excused*).

**City Staff Present:** Community Development Director (CDD) Derrick Tokos, Public Works Director/City Engineer Tim Gross, and Executive Assistant Wanda Haney.

A. **Roll Call:** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Hardy, Croteau, Patrick, Franklin, and East were present; Berman and Branigan were absent but excused.

B. **Approval of Minutes.**

1. Approval of the Planning Commission regular session meeting minutes of June 8, 2015.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin, to approve the Planning Commission regular session meeting minutes of June 8, 2015, as presented. The motion carried unanimously in a voice vote.

C. **Citizen/Public Comment.** No public comment.

D. **Consent Calendar.** Nothing on the Consent Calendar.

E. **Action Items.** No items requiring action to be taken.

F. **Public Hearings.**

1. **Continuance of File No. 2-PD-15 / 3-PD-15 / 1-SUB-15.** A request submitted by Bonnie Serkin of Landwaves, Inc. (Elizabeth Decker of JET Planning, authorized representative) for approval of major amendments to the approved Preliminary Development Plan, Final Development Plan, and Tentative Plat for Phase 1 of Wilder. The Planning Commission held a public hearing on this matter on Tuesday, May 26, 2015, and Monday, June 8, 2015.

At 7:02 p.m. Patrick read the summary of the file from the agenda and noted that this was a continuance of the hearing for File No. 2-PD-15/3-PD-15/1-SUB-15 from June 8<sup>th</sup>. He noted that because this was a continued hearing, he didn't need to read the statement of rights and relevance again. He said that he would be opening the hearing to the public for testimony again and asked for the staff report. Tokos explained that he wanted to briefly touch on the additional information the Commission had just received since the original hearing. He noted that City Engineer Gross was attending the meeting. The Commissioners had received Gross' memo dated June 3<sup>rd</sup> prior to the June 8<sup>th</sup> hearing; that's now Staff Report Attachment "F." The applicant responded with a number of letters and a revised set of plans; Attachments "G," "H," and "I." City Engineer Gross had prepared a memo, which Tokos received Friday that is Attachment "J." Tokos pulled together findings and a final order, which the Commissioners received just prior to this meeting. He wasn't going to review this in its entirety; much of this is consistent with the staff report the Commission received at the initial hearing outlining how the applicant has satisfied the criteria. Tokos said he would focus on the points of disagreement, which have been narrowed down substantially at this point. He drew the Commissioners' attention to page 11 that gets at the one criterion that "the planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land." There are other standards that this is interwoven into that he wouldn't get into, but are referenced here because he didn't want to reiterate this in multiple locations. He said the Commission effectively has two options here. He said he would touch on Gross' memo, but noted that Gross was present to answer any questions and hopefully the Commission would take advantage of that. Tokos thought basically the push points at this juncture are that our

Public Works Department and our Fire Department are looking for streets that are wider than what are proposed, at least with a few of the street sections; namely SE 43<sup>rd</sup> Circle and SE 42<sup>nd</sup> Place, which are Phases 3 and 4, and Fleming Street, which is in the Phase 2 package. They are looking for 24 feet of unobstructed street area, basically two 12-foot drive aisles, as a minimum standard that should be applied here to ensure that all of the Fire Department's equipment and the Public Works Department's equipment can access these streets. Gross points out that for utility purposes, he doesn't want to have utilities in an area where he can't reasonably access them. That's the concern there. Alleys are fine per that testimony provided the utilities aren't in the alleys if they're narrower than 24 feet in width, and the lots that abut the alley can be accessed from other streets for fire suppression purposes. Gross had had a concern with respect to a dog-leg intersection proposed on 44<sup>th</sup>. That concern has been addressed at this point since that street will not be a through street; instead 46<sup>th</sup> will serve that purpose. Tokos thought the Commission has two different options here to address the Public Works Department's and Fire Department's concerns. You can certainly accept the City Engineer's testimony as expert testimony that you can rely upon to put together a finding that more or less mirrors what Tokos put in here as Option 'A' that gets at street sections narrower than 24 feet in width are problematic because they place undue burden on emergency and utility service providers because they can't adequately access those streets given the size of their equipment. He said the Commission could certainly find that it's feasible for the applicant to satisfy that and provide the City with a revised set of drawings that show that. They have sufficient area in their planned development to meet that, but it would require some design adjustments. You can make a feasibility finding that that's not going to substantially impact the design as presented.

Tokos explained that Option 'B' would be to accept where the applicant is at right now. Your rationale there would lean more on the Kit of Parts that was previously approved by the City in 2009 because the street sections he just referenced that the applicant is proposing are consistent with what was approved in 2009. The difference here is that the City has acquired a ladder truck for example after that the original planned development was approved. The ladder truck was needed by the City because we do have taller buildings. Typically a ladder truck is needed for buildings that are over 35 feet in height because you can't reasonably access them with your conventional equipment. Wilder development is not proposing structures of that height; they cannot do that under the height restrictions that are imposed outside of the commercial area. But the commercial area does have wider street sections. In the Option 'B' route the Commission's reasoning would be that what the applicant is proposing to do now at these locations is no different than what was approved by the City and found to be acceptable in 2009. Tokos said there's a little bit more language in there; but that's it in a nutshell. That is where the two options takes the Commission.

Tokos touched on the conditions of approval. The first condition just pulls in prior approvals just to make it clear that this action doesn't invalidate prior conditions of approval that the Commission imposed with prior decisions. The second condition gets at that for trail improvements on Tract G and H, which are in Phases 3 and 4, the developer will be responsible for installing those concurrent with the platting of those phases. There's findings in there as to why that is appropriate and necessary. The third condition gets at accessory dwelling units and basically pulls over the same limitations that were imposed in 2010 when accessory dwelling units were provided as an option in Wilder. They've asked that that be extended to Phase 2D, Phase 3, and Phase 4. That's what that provision speaks to. The fourth condition gets at the wetland in Phase 4. The City Engineer has noted that while we've made a lot of progress in working through this issue with Wilder, the tract as depicted might not be adequate. It may need to be linear and possibly wider. That type of issue can be addressed as part of the final plat. That's how that condition is drafted; should the applicant elect not to mitigate or eliminate that and instead use the wetland as part of the storm drainage conveyance system, that the wetland and the associated storm drainage infrastructure will be placed into a tract that would be under City ownership for purposes of maintaining that storm drainage infrastructure in a wetland area, and that that configuration of that tract needs to be approved by the City Engineer prior to the final plat being recorded. The fifth condition deals with SE 45<sup>th</sup> Street and SE Geneva Street, which are listed as green alley concepts. Tokos believes that Gross talked to Serkin and Emery about doing them as urban alleys, and that they were amenable to that. That is what condition 5 is driving at. It's just a different street section. Green alleys have a planting strip down the middle, and Gross doesn't want to deal with that on a maintenance basis because they're a little more problematic. Condition 6 ensures 24 feet of clear area within the rights-of-way for SE 45<sup>th</sup> Street, SE Geneva Street, and SE Fleming St. Number 7 gets at the developer obtaining a letter from the City Engineer confirming that off-site water, sewer, storm drainage, and street services are adequate to serve the planned development. The subdivision code goes into what those specific elements need to be. That subdivision code standard is clearly targeted to not what is in the development but the capacity of the infrastructure that comes up to the proposed development and whether that's adequate to handle the increased demand that's going to be placed on it. The eighth condition, which is typical of any conventional subdivision, is they'll have to get their infrastructure in place in a condition that is acceptable to the City

Public Works Department before final plat is recorded for a particular phase. Similarly, condition 9 talks about the public improvements. It does note though that they may take advantage of the agreements to the extent they are allowed in our subdivision code, and there are specific provisions that speak to how those are to be structured and are to work. Number 10 is a prior condition he carried forward just for ease of administration that gets at the three-story building heights in the R-3 zone within the Village Center and how that's to be addressed. Condition 11 gets at the approval timeline for the subdivision plat and when the phasing needs to occur. The last one is a condition for Option 'A' and the request the City Engineer made. If the Planning Commission wants to go with Option 'A', you would look at imposing a condition that more or less aligns with what Tokos outlined here. Tokos did put together this set of findings and final order fairly quickly, so there may be some cross-references that need to be cleaned up; but he thought it was a pretty good starting point to launch this conversation.

**Proponents:** Bonnie Serkin, COO for Landwaves, Inc., 2712 SE 20<sup>th</sup> Ave., Portland, who is the master developer of Wilder came forward to testify. She assured everyone that public safety is at the top of their list of very important things. They have no intention of designing anything that interferes with public safety. She said that she appreciated Gross going over his memo with her on Friday afternoon. It was very helpful to get his perspective. With that, Serkin turned the testimony over to Elizabeth Decker of JET Planning, their land use consultant, to go into further detail. Decker thanked the Commission for having them back and taking the time to look at this development. She said that they are looking forward to getting under construction shortly. She explained that as the Commission knows, Wilder is a neo-traditional new urbanist neighborhood with a mix of uses and residential types; and the street and utility concepts form a framework for this type of neighborhood and were developed and approved in the original Kit of Parts actually dating all the way back to 2007. It was in that 2009 approval that they came and worked with the Commission to get the development approved using the Kit of Parts subject to further review with the Fire Department. She said there was a pretty similar conversation then. Safety was the priority then; and it is now. They worked with the Fire Department through final plat on final design construction to make sure those cross sections from Kit of Parts when transferred to the real world actually worked. They got the Fire Department's approval and built Phase 1. It is on the ground and almost all of the homes are constructed now. They are looking to take that same design, same concepts that worked so well, and bring them over into Phases 2, 3, and 4 to maintain the new urbanist, village-like character in Wilder. They wish to continue working with the Fire Department through this to make sure that those streets provide safe emergency access. They appreciate all the work that Tokos, Gross, and Murphy have put into working with them on the revised design over the last couple of months. She said if you look through the memos, they have made several revisions based on the discussions that they've already had; in particular the memo from Gross on June 3<sup>rd</sup>. They have made numerous changes; the length of the parking stalls, enlarging the cul-de-sac in 42<sup>nd</sup> Place, modifying the turning radii, providing public utility easements, adjusting the Fleming Street intersection, widening 46<sup>th</sup> and Ellis Streets, changing the pavement types from the green alley to a hard surface for the urban alley, privatizing some access driveways, and modifying the Harborton turnaround. So she thinks they really have a lot of these issues nailed down. They appreciate the discussion and getting that all hammered out. Again, the central issue is just getting that balance between safe fire access and maintaining that small-scale relatable streets where the house on one side makes a connection with the house on the other side; and they're not "paving paradise to put up a parking lot," which is what they're trying to avoid. They feel like they achieved that balance successfully in Phase 1 and are looking to continue those themes through the further phases. They believe they have met all the documented concerns about roadways for fire access. The concerns stated by the Fire Chief really focused around the turning radius, especially on those narrower streets; the alleys. They have a 20-foot width; but as the Fire Chief stated in the minutes from the previous meeting, the focus is really on turning into those. The design radius for that hook-and-ladder truck that's been acquired since their previous approvals is 30 feet. So they have revised all the corners into the narrow streets to meet that 30-foot turning radius. She said, as Tokos had mentioned, that truck might not even be needed in the single-family phases of Wilder because there won't be any development more than one or two stories. Fire code requires a 20-foot wide fire lane for those vehicles to access; and they have provided that throughout all of the proposed streets and alleys. That allows enough room to deploy the outriggers or the stabilizers that you see in some of the photos. In addition, they understand that firefighters need to move around the trucks so they have provided an additional 4 feet outside that 20 feet on either side of the alleys that will be a clear space with a public utility easement that will give them some extra maneuvering room and will allow them to deploy their hoses and other equipment.

Decker said that they also understand that Gross has some additional concerns about access for utility maintenance. They believe they can make the design meet the fire code as well as also satisfy maintenance concerns with some of those similar design techniques. Again, designing those corners for the 30-foot turning radius should give access for the same scale of vehicles, and those 4-foot wide public utility easements really take it from a 20-foot alley to 28 feet

worth of room to work with. Again, their design is consistent with Phase 1 and their previously-received approvals; and they are hoping to just extend it down the road. Just similar to previous approvals, as Tokos had mentioned one of the conditions of approval is that it be consistent with conditions from previous approvals, and one of those is a condition to work with the Fire Department through final plat to make sure through the design and construction process as they finalize street sections that they maintain that safe access. They would still be bound by that condition and would certainly work in good faith with the Fire Department to fulfill it. The process and the dialog worked successfully in Phase 1. They came up with some minor modifications. They had designed the turning radius of the alleys to the dimensions that the Fire Department had specified, but it wasn't working; so they made a modification to cut the corners and add some alternate surfacing so they could travel outside of the paved right-of-way, which gave them much more flexibility of getting into those alleys. They will work on similar adjustments through the final design and construction with these phases as well. As part of that ongoing adjustment, their one request for consideration is that along with the flexibility to modify the street sections in response to the Fire Department comments, also allow them some similar flexibility in the final development plan to make some minor adjustments to lot sizes, potentially the number of lots just a small amount if the turning radius or other widths require it and the residential type that may result from those adjustments. For example, if they did move to a wider street, it might make it more feasible for cottage product rather than a detached single-family small craftsman. They just ask for some flexibility to use the residential types already approved in the Kit of Parts, but just change some out as needed if there are different lotting patterns or street widths as a result of their discussions with the Fire Department during final plat.

**Opponents or Interested Parties:** City Engineer/Public Works Director Tim Gross thanked the Commission for an opportunity to talk about his and the Fire Department's concern about the Wilder subdivision. He thought that it was worth noting that there have been several references to the first phase of Wilder and some of the approvals that were done at that time. He said it seems pretty clear to both the Fire Department and the Public Works Department that the first phase of Wilder doesn't work very well. They've gone and run some turning movements with Public Works' vehicles and staging of emergency vehicles within the first phase of Wilder. It's important to remember that it's one thing to get a truck onto a street, but it's another thing entirely to actually be able to use that vehicle once it's on the street. He said the intent of the pictures he supplied with his last memo was to try to illustrate that point. He said there's one that proves his point pretty well. On the second page there's a photo of a small blue car next to our ladder truck; and the ladder truck was set up on a 22-foot wide street from edge of concrete gutter to edge of concrete gutter. The outriggers on that truck extend from gutter to gutter. The front of that small car was practically touching the garage door, and the back of the car is over the curb line slightly. One of the challenges with the streets as narrow as they are and this setback as close to the street as it is, it provides very little control of what takes place outside the street or sometimes is in the street right-of-way by people who are trying to park their cars in their own driveways. Gross said one of the considerations of the Fire Department is that they will not place a vehicle in an area where a wall could fall on it. He noted that here you're looking at the back of the garages, but if you look at one of the photos on the woonerf where you can see the fronts of the homes, there we have a standard engine. The house actually overshadows the road so much that they couldn't set up in front of the building at all. The Fire Department actually has to approach the house from both directions. They're not able to pass by each other. They're having to back out of that street because they're not able to pass one vehicle by another. You can see how far out the outriggers come. They're not able to move their hoses around the truck. They're not even able to open the doors of the truck and get around it. They're not able to stage for the fire. They mentioned the extra clear space that a utility easement would provide, but that's not actually true. Utility easements are allowed for fire hydrants, utility boxes, transformers, street lights; obstructions are what take place in utility easements. We're not allowed to build structures there; but there are certainly mailboxes or other things that provide obstructions to either vehicles moving or trying to pass through that region. He said if you talk to the Fire Department, they say that if they have a fire they will make their way through. If there were bushes and trees and that sort of thing, they literally would push those over; but that's not what they want to do because that doesn't really help with their response time. Gross said that the Fire Department is completely in agreement with him that a 20-foot wide street absolutely doesn't work. A 22-foot wide street they could probably make work if they had to; but is that really what we're trying to do to our public safety group? A 24-foot wide street is really the minimum necessary to even be able to pass two vehicles by each other. The outside mirror to outside mirror on these trucks is somewhere between 10 and 10-and-a-half feet. Even to pass one vehicle by another and keep the wheels on the roadway, you need a 24-foot wide street to be able to do that. That's similar to the City's jetter truck. Public Works use the ladder truck as their design vehicle because it does have the largest turning radius. But it is not the largest turning radius of any vehicle in our city. In a typical city street, they use what they call a WB62, which is actually a semi-tractor/trailer. People take deliveries, they have their dishwasher or furniture delivered, the garbage truck goes down the street, the school bus goes down the street; a lot of these vehicles are pretty equivalent

in width. They are going to be passing by one another or passing by a vehicle that is parked on the side of the road. Gross noted that there was some discussion about the purpose of the ladder truck. The City was required to get the ladder truck for us to be able to build structures that were taller. The Fire Department doesn't only bring the ladder truck out when there's a tall structure fire; they use that particular piece of equipment for suppression. When you have buildings that are built very close together like in Wilder, or in a townhouse subdivision, or in one instance the City's water treatment plant where they used this truck in this exact same fashion, they use it for suppression on the buildings on either side of the fire to keep it from spreading.

Gross said the Public Works Department has spent a great deal of time working and talking with the Fire Department reviewing the Wilder subdivision, reviewing the standards in general to ensure that they are able to provide the public safety needs of our community. He said it's slightly mind-boggling that he is arguing for a 24-foot-wide street because he probably wouldn't let a 24-foot-wide street go in any other subdivision. That's the absolute minimum that you have to have to be able to function safely; not just with your emergency responders, but also with your Public Works equipment. We have a sewer jetter truck, and the turning radius is only slightly smaller than that of the ladder truck. It was the design vehicle until the Fire Department replaced their old ladder truck with the current one they have. This jetter vehicle is very wide, and it's used to clean sewers so it ends up having to set up essentially in the middle of the street in order to do so. In this particular development any street that they're on is essentially closed when they're doing maintenance on their utilities. He said if you take a look at an emergency response, typically what you'll have is at least one squad car, an ambulance, and a fire engine. That fire engine is the Fire Department's typical response vehicle. You'll see that all over town because when a firefighter is out and about, they drive that truck because that's the first vehicle that goes on a call. You have three vehicles that go down that road. When one of those vehicles is on that road, the other two vehicles can't pass it by anymore because the 20-foot wide road isn't wide enough to allow that to take place. So one of those vehicles is backing down the road, which is similar to what would take place if they had their jetter truck set up in the road. A 24-foot road would allow you to get those vehicles by each other. Gross' comments in his memo were exactly that; it's necessary to have a 24-foot wide road to allow one emergency vehicle to pass by the other. That allows you the flexibility to be able to get your equipment to where you need it set up. Otherwise, if the fire engine gets there first but the ladder truck needs to set up someplace else, he either has to back down the street turn around and come back in from the other direction or pass by the fire engine. Gross said those are primarily his main points on this. These streets are not sufficient to provide two of the core functions of why a city exists at all. Cities are there to provide public safety and to provide utilities on a large scale. He said that right now we're struggling to provide those two basic functions because the desire for livable communities is offsetting the need to provide public services. He thinks there can be a happy marriage of both. We're not asking for 36-foot wide streets; we're asking them to widen the streets out to 24 feet. Gross thinks they can still meet their goals by doing that, and then the City has a much easier time providing essential city services that we need to provide on a daily basis. He said it's only a matter of time before one of these streets ends up getting dug up by one of our utility crews because of a water line break, a gas line, or any one of those things. He said you can take a look at any one of our streets, and they're all patched. We had heavy equipment out there doing that. It's necessary for them to have a little bit of room to do that without having to close the entire street in order to get that done.

**Rebuttal:** Serkin returned she said to provide some further comments more so than rebuttal. She said that she knows there has been a change in staff since they received these approvals. She said that any jurisdiction that has traditional neighborhood development goes through this same discussion about how to get this balance. She said last time this happened; not at this hearing stage because they spent a lot of time before with people in the City explaining how it works. She said that all jurisdictions that deal with this have a way of working it out. Serkin believes that we can work it out and that we can make it as safe as it ought to be, as functional as it needs to be for the City's purposes, by just mirroring what we did the last time; deal with the Fire Department and make it work and be safe. She said one thing she promised Gross in their conversation last Friday was that she would pull together case studies on what happens in other jurisdictions and how they come to resolution and make it work for everyone. She apologized for not doing that sooner, but there are lots of ways to do this in the future. Serkin just asked that the Commission mirror this time what they had in the approval before; and they'll build it safely and functionally.

Patrick closed the public hearing at 7:35 p.m. for deliberation. Patrick wondered if the Commission wanted to make a decision now. East thought we still needed some discussion. Patrick said this is the time for discussion, but he was trying to decide if the Commission wanted to make a decision now or continue the hearing again. Hardy said maybe the Commission should ask what it means to work it out with the Fire Department later. Croteau suggested having discussion before deciding if we need to continue this again. He said that he's in full agreement with the concerns

that Gross expresses in his memo. We can hardly ignore public safety. He said that Gross raises good and valid points that have to be addressed. On the other hand, he's a little uncomfortable with sort of changing rules after a prior approval. In effect if we change the rules, it means withdrawal of the approval that's been made. He thought the issue is of sufficient merit though that he wants to hear how this can be resolved before an up or down vote. He would like to see this given more time. He said if the applicant believes they can assuage Gross' concern, he would like to give them time to do that before saying this is something we need to do. Certainly going forward, he thought the Commission has to take all of these considerations into account and set standards for going forward for sure. But what do we do about what has already been approved? That's where he has difficulty; a rule change that has in effect made it so any approval can be withdrawn at a later date. That's a difficult thing for him to accept. He doesn't want to axe it if there's a way to work this out between the parties before the Commission has to come to that firm decision. Franklin completely agreed with that, and that's where he stands as well. Hardy thought Croteau's comments were very well stated; we need to see how things will be worked out. Patrick said he hates to give a blanket approval. We have this set of Kit Parts that the Commission approved once before, and he was around for that; but on the other hand, we have evidence that it's not working. He thought the Commission needs to do some hashing out about what would be appropriate going forward. He tends to think there is a compromise in there someplace. He said the applicant has done a lot of stuff. He's glad to see the turn radius. He had no problem with them having flexibility on what they put where; that's not a big concern. They need to make the lots work; and he would be happy to do that. He does think they need to work things out. Patrick also would like to hear from Fire Chief Murphy that he signs off on it too. East said it's reasonable to get more information and make sure everybody's going to be happy with the modifications.

Testimony was reopened for Serkin to make additional comments. She noted that there are still further approvals that they need to get before they can go on. The last time the way it was resolved was that the Planning Commission gave this level of approval and then they resolved the other issues like the ones Gross is bringing up tonight before they went to final plat. They couldn't get to final plat without getting those approved. She asked the Commission to consider that they can approve this the same way tonight. She said that there are builders who are ready to start building. It's a tough summer out there because interest rates are going up. She thinks that the integrity of Wilder as a whole, which is going to continue decades from now, is very important. She can also see that their builders are getting edgy. That's something they haven't experienced before because the last time they were going through this there was a recession and no one was edgy about anything other than how to get through it. It took them a year last time to do this sort of thing with case studies and explanations of how this comes together and how to make it work. Even if it takes a month to do that, she's afraid their builders missed part of the summer. She asked if there's any way to get this resolved tonight through the Planning Commission level, and then they will take it to the next step and do what needs to be done for public safety and efficiency like they did the last time.

Gross said that although the Wilder subdivision is obviously passionate to Serkin, it's something that the City will be maintaining for perpetuity. Which means if Gross works here for 50 years, he will still be working with Wilder. He said for any decision we make tonight we have to take into consideration how we will be operating our city long into the future. He hates making a decision that is short-sighted or isn't taking into consideration the ability to provide public safety for somebody who lives on one of their streets 25 years from now. He'd hate to go make a decision without making sure we can provide the city services that we are obligated to provide. He said it's been his experience in the last several months that, especially in Wilder, they are moving a little bit faster than the City can respond in approving their construction documents, and the builders are literally sitting on site waiting for him to review those designs and hand them over. That's not the proper way to handle an investment in our community that's going to be here a very long time. He's not saying not to make a decision, but we need to be very careful in our consideration of that decision and not rush it through. Gross noted that there were a couple of options that were provided by Tokos for the Commission to make a decision tonight. They were a little black and white one way or another. So he doesn't know how the Commission gets around that particular topic and still make a decision tonight.

Tokos said he didn't see what the Commission is gaining by continuing. He doesn't know that the Commission will end up with a different outcome than one of the two options that are listed. He said that the Commission has adequate factual basis and defensible findings to go either direction. Kicking the can down the road for further discussion with the Fire Department isn't going to lead to a different result. You can pull in the Fire Code, but the Fire Code's not going to lead to different results. He said the Commission really has a fundamental choice here. Do you want to require in this case that some of these street sections need to be wider based on the testimony Gross has provided; or do you believe that the street sections are adequate as designed right now as the applicant has proposed. He thinks they're both defensible, they're both reasonable, and you're not compromising. You're putting together defensible

findings in either case. Tokos' recommendation was for the Commission to talk it through and come up with a direction they wanted to go with. Then the final plat gets tailored accordingly.

Gross noted that Chief Murphy has been privy to these conversations. He is in agreement with the memos that Gross provided. He understands and has provided Gross with documentation about his frustrations with constraints on fire response times. It's not Gross' perspective that the public streets need to be wider; it's the Public Works Department and the City Fire Department that the streets need to be 24-foot wide. He said that's the response of those two departments within the City.

Decker wanted to clarify what Tokos had said in terms of black and white options. They are distinct options, but she wanted to point out that Option B does provide some flexibility because they are still bound by that condition that they get final Fire Department approval. If they need to modify the streets, they will still do that. It's not that the plan you see tonight is going to be written in stone and they're going to build that way. They don't plan to show up at Gross' office and say the Planning Commission said yes so we are building this way. They are planning on saying this is where they got at Planning Commission, now let's work through the final issues. How can we get the turning radius right? How can we make sure you have access to the manholes you need? How can we work with Chief Murphy? Is there a particular area here? How can we make sure we get the access right to make sure you can get your vehicles past? She said one thing they could do is provide periodic no-parking areas or some queuing space to allow vehicles to pass better. All of those things they can work out prior to final plat. Even though they are black and white, one option gives a lot more flexibility as they move toward final plat. Versus Option 'A', which is pretty well defined; and they wouldn't have as much ability to adjust and compromise with that option.

East asked the applicants if they could do the 24-foot width without having to go into building redesign on those areas they want to start construction on now. Serkin said on Phase 2B and possibly 3, those can be done without doing violence to the design. Decker said some of the other phases they would have to take another look at because they may be more difficult. Those were the two that they want to get off the ground first; 2B was already designed with 24-foot width. Serkin said that 2D could also be done.

Patrick closed the hearing again at 7:45 p.m. for further deliberation. Hardy wondered if you stick with the requirement that the streets be 24-foot wide and just say how that creates an inflexible situation with regard to their plans. Tokos said if the Commission goes with Option 'A' you would be indicating that they need to revise the design of the street sections to accommodate two 12-foot unobstructed travel lanes. Option 'B' doesn't require two 12-foot unobstructed travel lanes. Hardy said they indicated that they would work with Public Works and the Fire Department to accommodate their concerns. Tokos said there's a difference between the two because Option 'B' does not require that they provide two 12-foot unobstructed travel lanes; Option 'A' does. Croteau said he didn't see a compromise here. If it's 24 feet, it's 24 feet. It can't be 23 feet or 23-and-a-half. He said what really troubles him is changing the rules for something that has been approved previously. When new technologies come around he guesses we'll have to face that. This is an issue of public safety; and that's one he can't ignore. He has to go with the issue that has highest priority, which would be Option 'A'. East thought we should go with Option B if that accelerates their schedule and as long as we see that the areas they will develop will accommodate a 24-foot section. Before final plat is done they demonstrate that those 24-foot sections are actually installed. As they said, they could modify those in the next two phases. So it sounds like they are willing to meet the requirements at least for the short term. He would say as long as they are willing. He doesn't mind giving them the flexibility in going with the Kit of Parts as long as before final plat is approved that Gross and the Fire Department have given their blessing on all of it. Then we stick basically with the original approvals and let them move forward. Franklin agreed with that. He would add to also allow, if Public Works asks or they come to an agreement that a certain section has to go to 24 feet, that they are able to rezone or re-modify the usage of the lots. Patrick said he sees what they're saying about allowing them to modify uses but the problem is that you're going to end up with two 12-foot wide travel lanes. He's taking what Gross is talking about, and as far as being able to get your equipment on the road beds and doing what you need to do, you're going to need those 12-foot lanes. That doesn't mean you have to have them elsewhere, but from what he's hearing it sounds like that's hard and fast. You're going to need that 24-foot width to do what you need to do. Being able to weave in and out isn't going to help solve the problem. If you start thinking about how you're going to set that truck up and move around it. They already have a sewer truck that's almost as big as the ladder truck. He's thinking that we're building for the future. We're going to have these same issues showing up again and again. One of the one-time compromises that comes back to bite us is the subdivision up above Jeffries Court where there's a left hand turn that misses a transite pipe that's in the ground; it's just a nightmare. We have had testimony about how bad it is

safety-wise there. It was a compromise we made to get by one time. Patrick's looking to the future saying if that is what they need, that is what they are going to have to have. It would be easier to design for certainty than leave it up in the air and try to get somewhere else later on. He was originally in agreement with East and Franklin, but the more he thinks about it, that is what it's going to take. We might as well bite the bullet and just do it now rather than putting it off because he has a feeling that we're going to end up three months from now at final plat and there will be 12-foot wide travel lanes and 24-foot wide streets. Croteau said we're going to be setting a precedent either way; if you retract a former approval and we go along with that, you are setting a course for doing this over and over. Patrick said the other telling point is that it doesn't work with the existing stuff you have right now. Granted, they've made design compromises to make it better. But still if you look at that truck set up in that narrow width street. The telling point for him was when Gross said they're using the ladder truck for fire suppression. Those places are really close together. If you're going to need a fire-suppression truck, that's a place you are going to need it. He was thinking you were only going to need it on commercial stuff. If they're that tight together, you may need that ladder truck up there to keep a fire from spreading.

Franklin asked Gross if most subdivisions in the city currently meet the 24-foot street width. Gross said they have been requiring 24-foot wide streets everywhere. When the Coho/Brant Master Plan came about they wanted narrower streets, and we went through the same process. He said that we weren't able to navigate our equipment, turn from one street to another, or safely get equipment by each other. So the Coho/Brant neighborhood instead of 20-foot wide streets has 24-foot wide streets. Gross noted that today he got a letter from the Nye Beach Condo Association for Alpine, which is 20 feet from curb to curb. They have photos of people parking on the street and blocking the road. The Public Works Department is proposing to make that road one-way with parking on one side, which allows you to get a fire vehicle by and marking the other side of the street as a fire lane. That was a request by people on that street that recognize the street with its current width just does not work. The City knows that, but that street was probably put in in the 1930s he would guess. Gross said, so anywhere we've gone and developed new streets, we've required at least a 24-foot minimum to be able to meet our equipment needs. He said that there are streets that are narrower in town, and we deal with those; but they were put in eons ago.

Patrick said he is looking to solve the problems down the road. Hardy asked why the Commission couldn't approve their plan subject to the immediate change to 24-foot width streets. Tokos said the Commission has Option A that would do that. If the Commission goes with that option, then he would modify the document consistent with that. His sense is that the Commission wouldn't want to see that again because it's a fairly targeted change; taking out Option B and going with Option A and the Option A condition. He said the Commission may want to add to that that the Kit of Parts sections that are at issue should be revised to 24 feet with two-way travel lanes so we don't have an inconsistency in the approved package for Wilder. He didn't think of that when he was drafting up the final order; but that's not a reach if that is where the Commission is ending up. Patrick said that and maybe also something on the turning radius. They've already modified some of the turn radii. Tokos said he didn't know if the Kit of Parts gets into that stuff. He would have to take a look. He doesn't recall it delving into that; that can be handled elsewhere. These are just the street cross-sections that are in the Kit of Parts. Gross asked if the final plat doesn't yet have to be approved. Tokos said the final plat has to be submitted. We would have an opportunity to look at that stuff on the final plat. Gross clarified that the turning radius stuff gets picked off at a later point. Tokos agreed that could be handled at that point in time.

At 7:56 p.m., Patrick opened the hearing again for further testimony. Decker said that if the Commission feels that Option 'A' is the direction they would like to go, Landwaves would request the flexibility to adjust lot sizes and the residential types to be added in as a condition of approval as Commissioner Franklin had mention, which would give them a way to respond to it as they redesign. They still do feel that they could meet safety and maintenance access concerns with Option 'B' if the Commission chose that option. It's just that if the Commission chooses Option 'A', they would like some flexibility so they can make this design work for the long-term. Tokos said that was his intention in drafting the conditions. That makes perfect sense. They would have to do that to put in the 24-foot sections. Patrick closed the hearing again at 7:58 p.m.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hardy, to approve this action using Option 'A' with a condition that the applicant is given the flexibility to adjust what needs to be adjusted, and that the rest of the documentation including the Kit of Parts gets changed to bring everything into consistency. The motion carried in a 3 to 2 vote with Commissioners Hardy, Croteau, and Patrick in favor; and Commissioners Franklin and East opposed to using Option 'A'.

**G. New Business.**

1. Tokos noted that the City Council will hold a Town Hall meeting on the Bay Front on June 29<sup>th</sup>, and the Commissioners are welcomed to attend. He noted that it's a pretty hardy agenda with a number of speakers. For the City, Gross and Tokos will speak. Andrew Bornstein will talk about fish processing. Steve Wyatt of the Historical Society, which is hosting the event, will speak about the Historical Society changes. Bob Ward with the group that worked on the sea lion docks will speak. There's a number of items on the agenda.

2. Tokos noted that the kick-off meeting for Urban Renewal is set for June 29<sup>th</sup>.

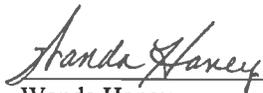
3. Tokos said that the LID kick-off meeting is targeted to be sometime during the week of July 6<sup>th</sup>.

**H. Unfinished Business.** Tokos had just covered unfinished business.

**I. Director Comments.** No further comments.

**J. Adjournment.** Having no further business to discuss, the meeting adjourned at 8:00 p.m.

Respectfully submitted,



Wanda Haney  
Executive Assistant

