

Minutes
City of Newport Planning Commission Regular Session
Monday, April 11, 2011

Commissioners Present: Jim Patrick, Mark Fisher, Melanie Sarazin, Rod Croteau, Glen Small, Gary East, and John Rehfuss.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Senior Administrative Assistant Wanda Haney.

Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m.

A. Approval of Minutes.

1. Approval of the work session and regular session Planning Commission meeting minutes of March 28, 2011.

MOTION was made by Commissioner Fisher, seconded by Commissioner Sarazin, to approve both sets of the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

B. Citizen/Public Comment. No comments regarding non-agenda items.

C. Consent Calendar.

1. Final Order for File No. File No. 1-ADJ-11. Approval of a request submitted by Gary Mines for an adjustment to reduce the setback along SW 27th Street from 20 feet to 12 feet for a townhouse unit located at 2638 SW Brant Street. The Planning Commission held a public hearing on this matter on March 28, 2011.

MOTION was made by Commissioner Fisher, seconded by Commissioner Rehfuss, to approve the Final Order for File No. 1-ADJ-11 as presented. The motion carried unanimously in a voice vote.

D. Public Hearings.

Quasi-Judicial Actions:

1. File No. 1-SV-11. A request submitted by Dean Coppage (Newport Church of the Nazarene, property owner) for approval of a proposed vacation of approximately 90 feet of undeveloped 20-foot wide alley easement on the south side of NW 11th Street between NW Grove Street and NW Nye Street. The abutting properties are currently identified as Tax Lots 2100 and 2700 of Assessor's Tax Map 11-11-05-CA. The Planning Commission will make a recommendation to the City Council.

Patrick opened the hearing for File No. 1-ADJ-11 at 7:02 p.m. by reading the summary from the agenda. He read the statement of rights and relevance and asked the Commissioners for declarations of conflicts of interest, ex parte contact, bias, or site visits. All Commissioners except Patrick declared site visits. Patrick called for objections to any of the Planning Commissioners or the Commission as a whole hearing this matter; and no objections were raised. He asked for a staff report. Tokos said that as noted, this is a request to vacate a portion of a 20-foot wide alley located between NW Grove and NW Nye Streets south of NW 11th Street. He noted that the applicable criteria come from State statute, and those are: consent has been obtained, adequate notice was provided for the hearing, and that vacating this right-of-way is in the public interest. He said that these are spelled out in detail in the staff report. The applicant provided a map of the area to be vacated. In the case file are the signed and notarized copies of the consents from abutting property owners and over 2/3 of the land owners. Notice was published in the newspaper. The property does not need to be posted until the City Council hearing. Tokos said that, regarding the last criterion (if it's in the public interest), he reviewed the city's transportation plan, the bike and pedestrian plan, the north side local street plan, and none of them call for improvement of this alley. There is an existing storm water line down that alleyway. If the Commission chooses to vacate the alleyway, Public Works would like a recommendation for easement to the benefit of the City so that line can be maintained. Tokos included that recommendation as a potential condition for the Planning Commission to consider.

Small asked about the requirement of consent from 2/3 of the properties. He wondered if that is 2/3 of the tax lots or residents. He noted that the Nazarene Church owns about 2/3 themselves. Tokos said the way the statute works is that the consents are from the abutting properties and the owners of 2/3 of the land within the notification area, which is a large rectangle 200 feet to either side and 400 feet to either side of the terminus. Fisher noted that, if it includes the properties to the south, the fire department and the owners of the ball field would be included. Small said his question was simply what the procedure was when the land is owned by the entity applying for the vacation. That makes it pretty easy. Tokos said that the concept behind that is to make sure that the majority of the properties that would benefit from utilizing the right-of-way are on board.

Proponents: Dean Coppage, 1130 NE Voyage Ave, Lincoln City, OR 97367, the agent for the Nazarene Church came forward with an explanation. Coppage noted that they actually obtained signatures from every property owner, including the City and the Catholic Church. For everything to the south 400 feet radius, they acquired signed and notarized consent. To the north, the Nazarene Church owns the entire block between 11th and 12th Streets. The parsonage is on the north side of 12th Street. They also obtained consent from Groth Gates that owns the rest of the property in that block. They originally were going to turn in a request to vacate the entire easement between 11th and 10th Streets, but they were required to have consent from 100% of the abutting property owners to do that. In spite of their best efforts of getting those agreements that they sent to people and hand delivered, the one lot that the Church doesn't own is a 45-foot strip (Lot 2200). They met with the lady onsite for two hours, and she had a full list of demands before she would sign. The Church drew up an agreement insisting that it be signed and notarized giving them permission to enter her property and do the work for her at no charge (almost \$6,000 worth) but also required that 10 feet of right-of-way behind her property would be vacated and deeded to her. If she had signed and notarized the agreement, they would have come to vacate the entire easement and give storm drain easement all of the way down also. She has had the agreement for six weeks, and the only word the Church gets back is that when she decides to do that she will let them know. The church has to move forward, so they are just asking to vacate the north 90 feet where the church owns both abutting properties and just let it stand. Her heirs have indicated that the property will be for sale when she passes away, and the church will probably try to buy it. Coppage explained that is the reason they are only going in for a small piece now. Croteau said that he can't imagine much will happen to the 24-inch concrete pipe if it's below a parking lot. Coppage noted that the pipe is 60 feet down. They ran a camera through it, and it is in good shape. They have to realign the last 70-80 feet where it intersects with 10th Street because it encroaches into where the building is going. They are also putting in a new manhole down there and are reworking old storm drainage on 10th Street. He said that all civil engineering plans are ready to turn in, and the retaining wall has been completely engineered. As soon as the alley is vacated where they can legally build the retaining wall, they can move on. The final floor plans should be ready at the end of next week. The total plans should be complete and turned into the City no later than June 1st. He said that they are moving ahead. Small wondered if granting an easement to the City would prevent paving the parking lot; or if it would be paved, and in the worse case, they would have to go in and remove the pavement. Coppage said the church has agreed with the City that if anything ever happens to the storm drain that requires excavation, it would be the responsibility of the church to replace that pavement. He said that since the line is almost 60 feet down, it's not going anywhere. Tokos said the easement would not prevent them from paving; it's just a precautionary thing. There were no other proponents present wishing to testify.

Opponents or Interested Parties: There were no opponents or interested parties present wishing to testify.

Patrick closed the hearing at 7:19 p.m. for deliberation. Small said that the request seems pretty straight forward to him. Saying that it's not a developed alleyway is pretty accurate; he couldn't really tell where it is supposed to be. He said there doesn't seem to be any reason to keep that. He noted that the church did a good job of acquiring what they could and notifying the neighbors. Small sees no reason to object. Croteau felt that the request is reasonable, and he doesn't see why it shouldn't be approved. Rehfluss agreed with everyone that it looks like a good project. Fisher agreed with what was being said. East also agreed and had no objections. Sarazin also agreed. She said it is obvious that the alleyway has been vacated to the north and south of that block. She said it's unfortunate that Tax Lot 2200 wouldn't cooperate to implement vacation of the whole alleyway. Sarazin said she is satisfied with the request. Patrick agreed with everyone.

MOTION was made by Commissioner Sarazin, seconded by Commissioner Small, to recommend to the City Council the proposed alleyway vacation request as presented in File No. 1-SV-11 with the condition that a storm drainage utility easement be retained over that portion. The motion carried unanimously in a voice vote.

E. New Business.

1. Discussion about Community Development Department Goals. Tokos noted that in the meeting packets he had included a memo with the goals that the department put together and shared with the City Council before they had their discussion about Council Goals, which was last Friday. Tokos said that he is looking for the Commissioners' thoughts of whether this is going in the right direction. He said that if there is something else significant that we should be working on in the next year, it can be conveyed to the Council. Tokos informed the Planning Commission that Meredith Savage has left the City to do consulting work, and we will not be filling that position next fiscal year. Tokos briefly covered those goals listed in his memo. The first was Goal 5 planning. He noted that this is a follow-up to the inventory and mapping of the wetlands. We just finished the local wetlands inventory and provided the maps and the qualitative analysis to the State. They will review it and get back to us, so we should soon have an approved local wetlands inventory. This is the next step of that commitment coming out of the last periodic review that we are supposed to put in rules that protect significant wetlands. This will include a public engagement piece. Tokos noted that we can't move forward unless we can receive some grant money; and we will be eligible for that. Grants will not be made available until late spring or early summer. Tokos said this will become even more important. He recently learned that FEMA lost a law suit in federal court in Washington. The suit was filed by an environmental group that was unhappy with FEMA because they contend that FEMA doesn't look at endangered species. FEMA is putting together a program to comply, which will require changes to our flood plain rules that will move into habitat protection. This will be another reason why we need to tackle this. As we move forward, Tokos is looking to coordinate with the State to make sure we are addressing issues on both fronts. In answer to a question from Patrick, Tokos said the grant funding may possibly be for a consultant to help with the

outreach piece, but he could have them work on the technical piece as well. We don't have a lot of resources in house, and he will need some help putting the work together. Tokos said likely we would do our own habitat conservation program identifying what we will do to protect them. He said we have time and we can work through the process diligently. He said that we don't want to make it complicated. The second goal on the list was Goal 9 planning. He said this is not so much a mandate as we need to do our own inventory before periodic review. It could be an economic development opportunity. The City is short on commercial properties, especially large pieces. We are tight on industrial as well. This looks at the commercial and industrial land side of things. We need to take a comprehensive look at whether to bring in other lands or adjust rules. He said this goal would be dependent upon some grant funding to help us out. The third goal is implementing the housing study recommendations. Tokos said he would do this one; he wouldn't need consultants to assist. At the end of May, the Planning Commission will see the new policies, and we will have a hearing then. July or August it could be to the City Council. We will then be in a position to implement the key recommendations. The fourth goal involves records access. Tokos noted that all building records have been scanned, and our IT department is working on making it available for web entry. We will now start chipping away at scanning land use records. He said the more that is available in an electronic format, the easier it is to produce it to the public. It helps as we are matching things for re-development. We can more efficiently and effectively pull things together. We will chip away at this and do a few years at a time. The fifth goal involves handouts to get people all the information that they need in the first place. We will try to package things in a manner so we don't have loose ends and have them be surprised as they get into their project. The sixth goal deals with the update of the TSP. Tokos said that he would love to get this done. It's frustrating because we don't control it; it's ODOT-driven. There will be an open house in May. We want to have in place a standard that allows more congestion on the highway, potentially in South Beach, so development can occur in a manner the developers want to develop them. Tokos said that we have \$4.5 million in South Beach to improve capacity on 101, but we are not finding a partner in ODOT to make that happen. The City will take a tough stance that we shouldn't be footing 100% of the bill to address capacity on a federal facility. We will take time to make highway improvements until we get some kind of match and stretch our urban renewal dollars. The seventh goal deals with the Planning Commission's legislative agenda. The Commission has been working on a comprehensive zoning code update so it works more effectively. Instead of a finite project, Tokos views this more as on-going. Sometimes we will have more time to spend on legislative items than other years. The Council is on board with the vacation rental update. That ad hoc group will have recommendations for the Planning Commission that we will be looking to implement in the coming year. The City will become engaged in the territorial sea planning project. We will likely see some changes in water-related and water-dependent zones to match with the Port's strategic plan project as they are looking to tackle that next year. The eighth goal involves the building services side. We need to work on getting a long-term plan in place on how we will provide building services. Tokos noted that we now have a retired building official working on a part-time basis. The City will have to decide where to go after that. He said that it's unlikely that we can fill the position on a part-time basis. We will explore whether to fill the position in-house or contract service or what. We may try to get a backup agreement in place and see how that goes. The last goal involves the city center and Highway 101. The City recognizes the need to do some work on planning for the future and coming up with resources to make improvements there; be it, façade, traffic improvements, or streetscape along 101. There are not a lot of resources to apply to that. The City Council looked at these department goals, and what he heard was that they are on board with numbers 1 and 2 because they are mandated things. They are very supportive of the housing study. They are anxious to get the TSP done, but they realize it will be several years before that is implemented. The Council would like to see city center and Highway 101 improvements. It would be nice to get large planting medians to clean up that core. That is in prior planning documents. That may be a place to apply resources in the coming year.

Fisher asked is there had been meetings on vacation rentals. Sarazin, who is the liaison, said that there have been three meetings, and there will be another next Wednesday. She explained their progress so far. They went through examples of several cities. They went through a PowerPoint presentation that Tokos had prepared and now are going back through it one by one to determine recommendations to make for the City's consideration. She said that they are mainly focusing on rules they want to set for vacation rental usage, such as front yard landscaping, parking requirements, and maximum capacity with fire safety codes. The Committee used examples from other areas and took bits and pieces trying to give Tokos something to put together. She said it has been hard to pin down what the group wants, but she thinks they are doing a fairly good job of putting things together. Her concern is that we are requiring more of vacation rentals than we are of other residences. Fisher wondered if B&Bs or hotels have these regulations. Tokos said that hotels do, but not B&Bs. He said that we may want to make sure that standards applying to B&Bs are comparable to vacation rentals. Tokos said the committee's discussion has been about the different approaches from about nine different jurisdictions. They have gone through item by item and have gone through about half. At the next meeting, they will try to get through the other half. He said the hot topic has been under what circumstances to allow vacation rentals and whether to impose a cap or limit in terms of the number of them. When that discussion bogged down, the group decided to put that on hold and work through standards. There should be at least two more meetings. Tokos will have direction for a draft code to them and then it will be brought to the Planning Commission.

Fisher asked about the parking district on the Bay Front. Tokos said that the City Council at their last meeting adopted an ordinance allowing them to initiate a district. There will be two meetings on that, and the first will be May 16th. We will be getting notices out to everybody. They have put together an economic development plan of what they want to do and how much revenue they want to generate to pay for those projects. Fisher asked if it was correct that if 33% objected it wouldn't happen, and Tokos confirmed that. He said that is why they have been doing leg work and going door to door.

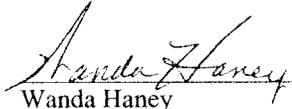
Tokos said on a housing note, the housing TAC will probably be meeting for the last time. The Planning Commission will have a work session topic at the next session to review their recommendations to see if that is going in a way with which you are comfortable.

F. Unfinished Business.

1. Update on Territorial Sea Planning. Tokos wanted to give the Commissioners an update on the Territorial Sea Plan. He had included a copy of a letter that the City Council, through the Mayor, sent to OPAC basically saying that the City does intend to get engaged in this. The City Council is happy to use the Planning Commission as a tool for organizing and framing local concerns and concepts should there be that opportunity. This is a state process, and the next step is outreach meetings. They will be scheduling something for Newport in May. That will be the first opportunity to weigh in on maps that they have been putting together. Once that date is set, we will get the word out to everybody. If the Planning Commission can make it to the open house, that would be good. This is the first opportunity to get some of these thoughts on paper and captured on their public record. What they hear will influence their next steps. Tokos said that this letter gets in the public record with OPAC and notes that this is on our radar screen and we want to be involved. Fisher wondered if the Commission needed to appoint some members to be involved in these meetings. Tokos said that he thinks that might get clear as their process moves forward. We should have that opportunity if we want to. Croteau asked what their time line was. Tokos said that he hasn't seen anything beyond the outreach, which will start on the southern coast and work north. Outreach goes into June. After that, he's not sure.

G. Adjournment. There being no further business to come before the Planning Commission, the meeting adjourned at 7:50 p.m.

Respectfully submitted,



Wanda Haney
Senior Administrative Assistant