

Minutes  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, April 28, 2014**

**Commissioners Present:** Jim Patrick, Rod Croteau, Mark Fisher, Gary East, Bill Branigan, and Bob Berman.

**Commissioners Absent:** Jim McIntyre.

**City Staff Present:** Community Development Director Derrick Tokos and Executive Assistant Wanda Haney.

**A. Roll Call.** Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. On roll call, Berman, Croteau, Patrick, Fisher, East, and Branigan were present. McIntyre was absent.

**B. Approval of Minutes.**

1. Approval of the Planning Commission work session and regular session meeting minutes of April 14, 2014.

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

**C. Citizen/Public Comment.** No comments on non-agenda items.

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

**E. Action Items.** No action items.

**F. Public Hearings.**

Patrick opened the public hearing portion of the meeting at 7:01 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Croteau, Branigan, East, and Fisher all declared visits to the site at some point. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

1. **File No. 2-CUP-14.** Consideration of a request submitted by Oregon Brewing Co., Inc. (Dennis Bartoldus, authorized representative) (Port of Newport, property owner) for approval of a conditional use permit in order to add approximately 10,600 square feet of warehouse and barrel fabrication space to an existing building currently being used for warehouse, barrel fabrication, and distillation. The request involves property located at 2150 SE Marine Science Drive (Tax Map 11-11-17 portion of Tax Lot 111), which is located in a W-2/"Water-Related" zone.

Patrick opened the public hearing for File No. 2-CUP-14 at 7:03 p.m. by reading the summary of the file from the agenda and then called for the staff report. Tokos noted that before the Commission was the complete record of a conditional use application. Tokos read through the criteria found in the NMC. He noted that the staff report contains full analysis of how the application addresses the criteria and conditions the Planning Commission should impose to insure that the application satisfies the criteria. He said, looking at the site plan, the conditions are related to a few different things. One fire access or driveway on the east side of the building is an area that is no longer needed by the Fire Department. It's not a safe condition in terms of how close it is to the edge of the building. This driveway needs to be decommissioned. It is suitable for bike and pedestrian use. Tokos had a discussion with the applicant about all of the conditions and understands that they are agreeable with these conditions. There is a safety consideration with the proximity of the addition extending into the drive area. Another entry point in the far northwest corner is blocked and needs to remain blocked. The plan now is that it will be removed and be combined with the landscaped area. The last one has to do with the parking area, which is bookended with loading bays. The city is recommending wheel stops be provided to provide a clear sense of where those parking spaces are and prevent pass-through traffic in the loading area. They could do something more substantial, but wheel stops could be removed should the use change. Tokos said that also the Commissioners saw the letter from the City Engineer about effluent monitoring. The City has had some issues with effluent discharge from the distillery and wants to position itself to assure there is adequate handling of the effluent discharge. Tokos noted also that findings and a final order have been prepared so if the Planning Commission agrees with the application you would be free to go ahead and take formal action and approve the permit tonight. Patrick asked where the sampling vault is located. Tokos said it's not depicted on the site plan; and we haven't received the utility plan yet. But it would need to be installed where it's reasonably accessible by the City; and there is certainly ample area. Tokos summed up that this application is to accommodate a 10,608 square-foot addition to the existing distillery building in which there is the warehouse and barrel fabrication area and certainly to expand the distillation. Branigan asked

how big the sampling vault is; and Tokos didn't know. Berman asked if this was automated monitoring; and Tokos confirmed that. Berman asked what actions the City would take if the specs are out of range; does the City have enforcement tools available to it? Tokos said he would expect that Public Works would use the monitoring information to engage and work with the brewery to insure discharges are safe and what they can handle. There will be a period of adjustment. Berman asked, the City wouldn't turn around and shut them down. Tokos said if it's bad enough, the City could do that; but what he sees is a collaborative effort. When it's exceeding permissible limits, Public Works would engage the brewery about changing their practices. Berman asked if Rogue would also have the same readout at the distillery; would they have access to the same information. Tokos didn't know if they would have access to the vault. Those are details he is not as familiar with as the City Engineer. Croteau asked about the effluent piping; and Tokos confirmed that the infrastructure is adequate there. Berman had a question about condition number 2; which seems to him that there is no reason to have that there because every business needs to comply with all applicable codes. So why specifically add that in here? Tokos said that actually is something we use as a boilerplate for conditional use permits to insure post-conditional use that information is provided that it all adheres to those codes. Otherwise it would become a nuisance. He said it's just a reminder more than anything else.

**Proponents:** Dennis Bartoldus, PO Box 1510, Newport, representing Oregon Brewing Co. in this matter, and Jim Kline of Oregon Brewing Co. came forward. Bartoldus noted that Jim Dahl and Kevin Lindstrom with the construction company were also in attendance. He noted that Kevin Greenwood from the Port of Newport, the property owner, was also present. Bartoldus said that Oregon Brewing has to make peace with the Port and meet what requirements they have since they lease the property from the Port. Oregon Brewing has covered the concept with the Port as well as the City. Bartoldus said that Tokos' staff report is very complete. The applicant has agreed to the conditions set forth in the final order that has been drafted and is before the Commission. Bartoldus wanted to elaborate on a couple of things so that the Commissioners have an understanding of the project. Bartoldus distributed several photographs of the property and wanted to run through those. The first photo shows the existing building that they will be attaching to. Historically, it is the Serven Marine Building. Looking at the photo, he said the area in front is where the parking spaces will be. The new addition will be to the right of the building in this photo. The second photo shows the area where the building will be located. By means of comparison, Bartoldus said that this build will be 10-11 thousand square feet. The last addition over by the brewery was about 20 thousand square feet. This will be about half the size of that building added on to the brewery about two conditional uses ago. When the brewery was originally approved in the early 90s, it was done as a conditional use permit; and for anything they do, even though they may think it's something that's allowed such as a warehouse, they come before the City to have the plans reviewed and obtain approval on that. Photo three is of the driveway that exists behind to the east side of the Serven Marine Building. The corner of the building is right there on the left. The white paint mark there represents where the corner of the new building is going to be located. Originally they were talking about taking that driveway out. They thought a better use would be to convert that to a bicycle and pedestrian path for those coming in the east entrance from the Port property that come up to events like the Seafood and Wine Festival and the amusement rides with Loyalty Days. Bartoldus handed out the aerial photograph of the property. He said from that photo, you see there really is no access from the pathway that runs along Marine Science Drive up to the parking area. There is a change in elevation there and there is no access without going through the landscaping and up the slope. So it seems logical to turn this driveway into a bicycle and pedestrian path. You can go up to the upper level if you park to the north by just coming to this roadway here and take the path up the driveway to where you can walk up to the parking area. One concern was vehicles not being able to use it; so they are going to put bollards at both ends; two on the north and one on the south. The request is to use bollards similar to what is along the pathway along Marine Science Drive; kind of a rock-looking bollard. The Port is requesting they put a curb three feet from the southeast corner of the building to make sure bicyclists are not running into the building. They will wrap it around the corner and put a curb about three feet out there. This will make the width at the south end about six feet or so and then it will widen out. He said the other reason it makes sense to make it a bicycle and pedestrian path is that there are utilities under there and you risk having a problem with some utilities. Bartoldus has talked to Tim Gross about that, and he has no problem with it. He asked Gross about where he wants the pathway cut over, and he had no opinion. They would like it close to the roadway on the north end so they can just cut it over; so they are looking at a paved path and head up that driveway. Berman asked where the south end is. Bartoldus said it about at the corner of the building here in the photo. Using the aerial photograph, he showed Berman. Bartoldus said that the landscaping will wrap around the corner of the building. He said that he heard a question about where the monitoring vault would be placed. Bartoldus talked to Tim Gross, and he didn't have an exact location. Gross wants it to be owned by the City and where the City could have access. Bartoldus said that is fine. Those details would be worked out. On the aerial photo, he pointed out to the Commissioners a general area. It will be on public right-of-way, which is what Gross wanted. Photo 4 shows another shot of the driveway. He noted that you can see a manhole there. This is where the pedestrian and bicycle access will run. Photo 5 shows the north end of the driveway at the intersection of Marine Science Drive into the Port property. He said that somewhere right there is where the crossover would take place from the Marine Science path to the other path. Photo 6 is another shot of that area; only looking south. He noted that you can see a bollard there in the pathway; and they would install one similar to that in nature. Photograph 7 shows the access into the Port property from the east off SE Marine Science Drive. He said that you will note the absence of sidewalks going in there, which is another good reason to have the pedestrian and bicycle path. Photo 8 represents the area in the northwest corner where two islands will be left and will be enlarged. There is a lane to the right of the concrete block; and that is the one that is to be left open. Photo 9 shows a close-up of that drain that is existing and is to be carved out of the island extension. Bartoldus said that he understood that the Commissioners received a copy of the revised final order. He said that he appreciated Tokos working with them on that so that if the Commission does approve this application, the final order can be adopted tonight as well because the Rogue and the contractor are hopeful that they can begin work shortly. He noted that the building permit was submitted and the plans have been sent over to Eugene for review; and they will sit down with them and make sure they don't have any questions. The process is under way. In regards to Berman's comment about

the need for condition number 2, Bartoldus said they know the conditional use does not give them an excuse not to follow other laws. He said in regards to the overall conclusion and conditions set forth on the very last page of the findings and on the back of the final order, they are agreeable to meeting those conditions. He has talked to the City about that. For condition number 6, the applicant will have to continue with the Public Works department to address their concerns and install that in a location where the City wants it installed. Bartoldus said that he thought the Commissioners were familiar with this operation. He said some have sat through seven hearings and have probably heard a lot of this before.

Jim Kline, 2320 SE Marine Science Drive, Newport, added that he appreciated the Commission's consideration. He said their intent is to comply and make sure everything works well in the community, especially in South Beach. They are working with the Aquarium and the Port on the decoration of the building so that they all have input.

Branigan asked if they actually make the barrels in the barrel shop. Kline said yes, it's a cooperage facility. They prefer to make their own barrels. He said that no one else in the US is doing this. It is a first for their industry and Newport. They use all Oregon products; Oregon white oak. Branigan asked if when the still is increased there will be more effluent. Kline said when the additional still is installed, there will be more effluent. That is why they need to be aware of the monitoring system. It's not as electronic now. The City takes effluent samples three to four times a week; and if there are any issues, Rogue gets a call right away. He said the City is aware that they will be adding to the distillation. Bartoldus said they understand that they will have to work with Public Works to address their concerns. Branigan said Gross's letter mentions high pH and asked if Kline knew what the pH level was; but Kline didn't recall.

There were no other proponents or opponents present wishing to testify; so rebuttal was waived.

Patrick closed the hearing at 7:29 p.m. for Commission deliberation. Branigan felt that the proposal and the staff report were exceptionally thorough. All possible bases have been covered. He understood that the Port has signed off on this. Branigan said based on that and what they are proposing, he would recommend approval. East said that as long as Rogue has confirmed that they are willing to meet the conditions and the Port is happy and the City Engineer is happy, he agreed that the Commission should move forward with this. Fisher said that the track record of Rogue speaks for itself. They have always been a quality tenant for the Port and always a good citizen for the City. They have gone out of their way to be a positive influence in the community. Fisher thought this was a reasonable request and that the Commission should grant it. Croteau thought that it's an appropriate request. It is consistent with past land use decisions by the Planning Commission. He thought this is suitable for approval with the six conditions noted. He said that he would hope that the truck access, driveway, and parking issues would be carefully laid out. He said this area of South Beach is actually becoming an attractive part of the City with all the landscaping and beautification. He hopes that they continue in that trend. Berman appreciated the efforts they are willing to make in order to conform to what is existing; the bollards and the landscaping. He said that's a big plus. He was fine with the conditions, except maybe number 2. Berman thought the Commission should go ahead. Patrick agreed. He felt that the application meets the criteria for a conditional use permit; and with the conditions he thought it was a go.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Fisher, to approve File No. 2-CUP-14 as written with the conditions indicated in the final order. The motion carried unanimously in a voice vote.

Fisher asked if this action needed to be declared an emergency in order to approve the final order. Tokos noted that the Commission has done approval of final orders both ways; either waiting two weeks until the next meeting or, if it's not an objectionable action, at the same meeting.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Croteau, to adopt the final order. The motion carried unanimously in a voice vote.

Bartoldus expressed their appreciation for Tokos getting the final order to the Commission tonight.

**G. New Business.** No new business.

**H. Unfinished Business.** No unfinished business.

**I. Director's Comments.**

1. Tokos noted that the preliminary budget is posted; and the Budget Committee is getting into deliberations. He will have more to add on that.

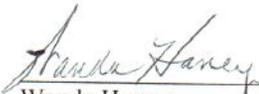
2. Tokos noted that the Nye Beach committee met for a second time. They covered the boundaries and got into uses a little bit but ran out of time. They will be picking up with use changes again at their next meeting. A date has not yet been set for that meeting. They will be recommending some changes to the boundary. He said the changes make sense; and he appreciated the thought they put into it. The Planning Commission can expect some modifications of some sort.

**J. Commissioner Comments.**

1. Fisher noted that this month completes his second term on the Planning Commission. At month-end on April 30<sup>th</sup>, Fisher is resigning his position immediately. He will be giving a letter to the Mayor tomorrow morning.
2. Croteau asked Tokos where things stand on the business license situation. Tokos said there was discussion with the City Council about making this a more formal work group; and there was agreement that would be done. There has not been a new meeting notice; potentially because of the budget. The Council thought it was an appropriate issues list the work group presented to them. However, Busby wanted to leave that door open since he didn't have a chance to participate in the last meeting. The group will be meeting in formal capacity in the future; but we don't have a date yet.
3. Berman asked about the status of the UGB expansion. Tokos said the County finally had a hearing and adopted it. Staff has two boxes of paper that will be sent off to DLCD for their final blessing; and the 350 acres will be done. Berman asked if the road agreements were done. Tokos said just an MOU at this point. Tokos said we should be able to initiate annexation of the city property in two to four weeks probably.

**J. Adjournment.** Having no further business to discuss, the meeting adjourned at 7:35 p.m.

Respectfully submitted,

  
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Wanda Haney,  
Executive Assistant