

**Minutes**  
**City of Newport Planning Commission Regular Session**  
**Monday, May 14, 2012**

**Commissioners Present:** Jim Patrick, Mark Fisher, Glen Small, and Rod Croteau.

**Commissioners Absent:** Gary East, Melanie Sarazin, and Jim McIntyre (*excused*).

**City Staff Present:** Community Development Director (CDD) 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 7:06 p.m. On roll call, Small, Patrick, Croteau, and Fisher were present. Sarazin, East, and McIntyre were absent, but excused.

**B. Approval of Minutes.**

1. Approval of the Planning Commission work session and regular session meeting minutes of April 23, 2012.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Small, 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. Public Hearings.**

Patrick opened the public hearing portion of the meeting at 7:07 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contact, or site visits. Fisher declared numerous site visits to the area. Patrick called for objections to any of the Planning Commissioners or the Commission as a whole hearing these matters; and no objections were raised.

1. **File No. 2-Z-12.** A request submitted by Port of Newport for a proposed zoning map amendment involving portions of Tax Lot 111 of Assessor's Tax Map 11-11-17 to rezone approximately 6.10 acres of the Port of Newport's South Beach Marina and dredge disposal site from a W-2 ("Water Related") to a W-1 ("Water Dependent") designation. Roughly 5.0 acres to the interior of the Port's property will be rezoned from W-1 to W-2 and includes the Yaquina Bay Fruit Processors' site. The request also involves a legislative text amendment to the Newport Zoning Ordinance Section 2-2-1.040 to include "Manufacturing in Conjunction with Uses Permitted Outright in a C-2 District" as a conditional use in the W-2 district. The Planning Commission will make a recommendation to the City Council on this matter.

Patrick opened the hearing for File No. 2-Z-12 at 7:09 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that before the Commission was a request from the Port of Newport, which would adjust the boundary of their water-related and water-dependent property in the South Beach peninsula. The amount of acreage going into water-dependent is slightly higher than into water-related. He noted that the acreage going into water-dependent actually fronts the Bay, as illustrated on the color map in the packets. The water-related is to the interior and includes the fruit processing and other land. The Planning Commission will be making a recommendation to the City Council, who will ultimately make the decision of whether or not to proceed with the zone change. Tokos said this is an attempt by the Port of Newport to find a way to allow YBFP to stay in this location. Originally, YBFP was on water-dependent land, which is now part of NOAA. Where they were using salt water intake at the time, they were authorized under a conditional use process. Since YBFP stopped using salt water in their operation, there is no longer a connection to the Bay that was a necessity of the conditional use process. A few years ago, shortly before NOAA arrived, the Port met with the City to see how they can tackle this. There was an agreement that YBFP would locate a little further to the south and then in the next three years find a location where the operation would be permissible. The Port's initial thought was the industrial area on the other side of the Bay, but this request seems like a reasonable approach. By swapping the zoning, the use is more consistent with the State's objective to see water-dependent uses along the water. The water-related zone would infill some of those areas further removed from the Bay area, which would be more appropriate. At the same time, there is a text amendment packaged as part of the request, which would allow manufacturing related to uses permitted in the C-2 zone as a conditional use. Tokos noted that if this package is approved, then YBFP would submit a conditional use application. It would be up to them to demonstrate the retail aspect in their operation. This text amendment can clarify some things in the code. This is not dissimilar to what the Rogue Brewery has been doing for a number of years. This classification can help in that situation as well.

**Proponents:** Don Mann, Port of Newport General Manager, came forward in support of the application. Fisher noted that he thought a couple of things in the letter to Mann from the City dated December 29, 2009, were important. Specifically, that the City has been working with YBFP regarding their waste discharge and that Public Works intends to see this issue resolved in the near term. In addition nothing in the letter is intended to postpone enforcement of any other regulations. He felt those were significant and need to be followed. He said that other than that, he thinks it's a good plan. Mann said that the Port will continue working with the City, and he knows that YBFP has resolved those issues or are working to. Small asked if the rezoning from W-2 to W-1 is to off-set the W-2 that needs to be rezoned to facilitate the fruit processing. Mann said the original intent was to assist in keeping YBFP there; but, even if that conditional use is not approved, it made more logical sense to have the land abutting the Bay be water-dependent. They ended up with more water-dependent than water-related. There were no other proponents present wishing to testify.

**Opponents or Interested Parties:** There were no opponents or interested parties present wishing to testify; so the applicant waived rebuttal.

Patrick closed the public hearing at 7:17 p.m. for deliberation. Small said that he doesn't see any concerns with this. The water-dependent zone is increased slightly. It facilitates and provides an opportunity for YBFP to remain on site. He believes it is a good thing and has no concerns with it. Croteau thought the criteria are met, and this is a reasonable proposal. Fisher said that it made sense to him. Patrick agreed that it made sense to him as well. He saw no problem with the changes and thought it was good for the future.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Croteau, to recommend approval of File 2-Z-12 to the City Council. The motion carried unanimously in a voice vote.

2. File No. 1-CUP-12. A request submitted by Oregon Brewing Co, Inc. (Dennis Bartoldus, authorized representative) (Port of Newport, property owner) for a conditional use permit in order to place a 500-gallon still in the Serven Marine Building that Oregon Brewing leases from the Port of Newport. The request involves property located in a W-2/"Water-Related" zone.

Patrick opened the public hearing for File No. 1-CUP-12 at 7:20 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that the staff report before the Commissioners contains the approval criteria for a conditional use permit for a 500-gallon still in the Serven Marine Building on Port of Newport's property. It is a small area on a larger 62-acre site. The staff report includes a map that shows the location of the building and a diagram where the still will be located. The building is primarily for warehouse use. Tokos summarized the criteria for approving a conditional use permit and noted that there is staff analysis that addresses each of these. The applicant's analysis is incorporated independently and rolled into the staff report as well. Tokos noted that services are already available to the site. Some adjustments can be done and picked up as part of the building permit review. He noted that there are no special requirements with the underlying zone; and no overlay zones apply. He said that the Rogue Brewery is already well-established, and this application doesn't introduce an element that isn't already present in some capacity; so there are no impacts to mitigate. There are no building modifications proposed, so the last criterion is not an impact. Tokos noted that there are two recommended conditions; first regarding obtaining a building permit and adhering to codes and regulations; and second that the proposal be implemented as proposed.

**Proponents:** Dennis Bartoldus, PO Box 1510, Newport, representing Oregon Brewing Co, came forward in support of the application. Jim Kline from Oregon Brewing Company was also present. Bartoldus said that the location is on the east side of Port property under lease by Rogue for some years. This request is to establish a 500-gallon still in the north end of the building. He said it would be about a 700 foot diameter area. Beer will be brought over by tanker from the rogue, offloaded through piping into the building and into the still. He noted that the public will not be at this building. The tasting room is closer to the water. There will be no noticeable traffic. The building height will be the same. There is already a paved area on the north side of the building that is not marked for parking where the truck would pull in to offload. Croteau asked if this was primarily a storage building in the past, would there be significant safety issues with a still of this size. Bartoldus confirmed with Kline that it is typical of what they are operating in the brewery already. Croteau asked what the brewery is distilling, and Kline explained it is wash from their Dead Guy beer and very neutral spirits. Croteau asked if it basically was an ethanol still, and Kline confirmed it was. Small raised a question about the findings in the applicant's submitted request, and wondered about there being virtually no traffic for this use or if it will increase traffic to the tasting room. Bartoldus said that in referencing traffic, they were referring to traffic at the Serven Marine building for which they are seeking the conditional use permit. He said there have been other distilled beverages added to the tasting room. As to the question of whether this increases traffic or not; they hope so. It is their desire to get more business. But, he said he doesn't think this will be a greater impact on the number of cars using the area than for the HMSC, NOAA, Rogue, and the RV park. He said they are talking about one still operating there. Overall, with the work done on the roadway there, he feels it is able to handle that. He said there is not going to be commercial traffic coming in here; most will be headed to the tasting room further down. Bartoldus said that he had a conversation with Tokos whether they needed to do a conditional use permit for this because a warehouse is an outright use in W-2; and 90% will still be used for warehouse purposes. Very little of the building will be for the still. In the chain of hearings for the Rogue operation, there originally was an interpretation that an office was an incidental use to the warehouse and could be allowed outright. The area to be used for the still seems to be very incidental. But, Bartoldus said that Tokos' decision was that this

started as a conditional use permit, and he would like to keep it up; and he would like to run this by the Planning Commission and let the public know. Bartoldus added that the decision in the previous hearing that manufacturing accessory to a use allowed in C-2 would be a conditional use in the W-2 zone fits hand in hand with this. Small wondered if they had any idea how much additional traffic there might be. Bartoldus said that at the Serven building there should hardly be any additional traffic. The product will be shuttled back and forth between the two buildings. He said that the traffic to the tasting room should be somewhere between minimal to traffic that can be accommodated because of the improvements made over there. Tokos said that he didn't put any analysis into the staff report; but looking at the small square footage of the warehouse, the parking demand is not at the level of retail sales. There would be ample parking at the warehouse to accommodate employees working with the still. Fisher said that the traffic improved once the RV park was built. There were more lanes of traffic. The Serven building is right below the offices for the RV park, and traffic flow has much improved over the years. Patrick said he also prefers to keep this as a conditional use permit. Small wondered if this was a new branch of operation for Rogue. Kline explained that they have been distilling for five years, and it is an expansion of the existing operation. Patrick asked if they are basically using waste off the beer products, and Kline confirmed that they are using by-products.

Don Mann, General Manager for the Port of Newport, came forward as a proponent. He noted that some of the same questions were asked by the Port Commission when this was presented to them. The Port Commission conditionally approved the request pending the outcome of the hearing tonight. He wanted the Planning Commission to know that the Port Commission is on board with the project and are awaiting tonight's outcome. There were no other proponents present wishing to testify.

**Opponents and Interested Parties:** There were no opponents or interested parties present wishing to testify; so the applicant waived rebuttal.

Patrick closed the public hearing for File No. 1-CUP-12 at 7:35 p.m. for deliberation. Fisher said it made sense to him. He didn't see it as any significant change at all. He thought it was good for Rogue; and Newport has accepted them as a major entity, and they have expanded greatly. He said this is a very small request and that the Commission should approve it. Croteau saw no issues with the conditions as noted. Small was in favor. He agreed with Fisher that Rogue is a significant entity in the community. He is for the expansion if it increases jobs and income. He asked his questions because his hope was that it would be a significant expansion. His questions were satisfied, and he was in favor. Patrick said it meets criteria. He thought maybe we should go back and make it explicit that manufacturing can be done in W-2. Tokos noted that the State's issue is with water-related getting expanded too far. They were comfortable with conditional manufacturing. He said the whole package of Rogue actions has taken the path of conditional uses.

Tokos noted there is a final order and findings tonight. If the Commission is ready to take action, that is available.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Small, to approve File No. 1-CUP-12 with the conditions noted in the staff report. The motion carried unanimously in a voice vote.

#### **F. Unfinished Business.**

1. Discussion of the Planning Commission's letter to the City Council regarding further review of the code as it applies to vacation rentals in R-1 and R-2 zoning districts. Tokos noted that at the request of the Planning Commissioners, he had included in the packets a letter to the City Council that captured the Commissioners' thoughts on vacation rentals and B&Bs in R-1 and R-2 so that it could be conveyed to the Council. He hoped he had captured their thoughts accurately. If it is okay, then his other hope is that Patrick or other members will attend the City Council meeting and talk to them about this in addition to Tokos presenting it. Fisher thought the letter covered it. He also appreciated the letters from Croteau and Berman. He said a number felt that they wanted to deny VRDs and B&Bs in R-1 and R-2. As the letter states, the point was made that because of the way it was historically, that may cause problems. He said that he would like to have R-1 and R-2 not included. However, the group decided there were some safeguards that the City has to monitor what is happening, and it probably would work out. He added that we decided to send this ordinance in this manner, so he will live with it. Patrick said he would be happy to go to the Council meeting, but he would be happy to have somebody from the opposite side there. He thought it was a good point, but he can't see how to get there. Croteau said he would be happy to attend the meeting. He said that with this he would like to see the ten occupancies a year; but it will come down to enforcement or lack of it. That is what will determine if we revisit this again. Patrick said that if the Council sends it back, they need to give direction on which way to go; time use restriction or just out-right ban. Fisher said that ten times was unenforceable; it would either have to be ban or monitor what happens. Croteau said that the ten times offers neighbors one more avenue; but it doesn't cover any more than what enforcement should do. Patrick said they will just go tell the Council their reasoning. It will be up to them what they want the Commission to do. He felt it would be better if the Commissioners went to explain, and Tokos agreed and thought the Council would appreciate it.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Small, to have the Commission Chair sign the letter dated today, May 14<sup>th</sup>. The motion carried unanimously in a voice vote.

#### **G. New Business.** No new business to discuss.

**H. Director's Comments.** Tokos noted up-coming public meetings for the Commissioners to be aware of. Wednesday, May 16<sup>th</sup> is the last of the Coho/Brant charrettes giving the preferred options. It will be from 6:00-8:00 p.m. at the Guin Library. He said it will be pretty specific as far as alignment, and how some local streets should be finished out (reduced street options). He asked that if the Commissioners had the time and interest, to pop in.

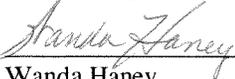
Another meeting will be an open house here at City Hall with the same time frame on May 24<sup>th</sup>. That will be the final TSP update. It will be a full roll out of the alternative mobility standard and the trip budget. He asked the Commissioner to also please attend that if they can.

Croteau asked when the vacation rental discussion is likely to be on the City Council agenda. Tokos said it will be at the Council meeting next Monday. Because the ordinance has been approved; this will not be a hearing, but will be under the discussion items at 6:00 p.m.

Tokos wanted to mention that the sign code regarding electronic message signs did go to City Council. The ordinance will go to them at the next meeting. There is a spread on the Council on general philosophy. Some folks were not plugged in at the Planning Commission level and showed up in opposition at the Council level. There is the opinion that Newport is part of the coastal scenic by-way, and they didn't want to see any electronic signs. Highway 101 is already cluttered. Others thought it is newer technology and that the Commission felt it could be used as a carrot to reduce height. At the Council's request, Tokos added clarification that those signs are not permitted in the Bay Front or the Historic Nye Beach District, and some optional language for them to consider requiring those signs be turned off when the business is closed. Tokos said that Commissioners are always welcome to attend any public hearing and even testify as a citizen; they just need to be cautious because it may be construed that they are testifying as the Commission.

**I. Adjournment.** Having no further business to discuss, the meeting adjourned at 7:50 p.m.

Respectfully submitted,



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Wanda Haney  
Executive Assistant