



## **PLANNING COMMISSION REGULAR SESSION AGENDA**

**Monday, February 11, 2019 - 7:00 PM**

**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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### **1. CALL TO ORDER AND ROLL CALL**

### **2. APPROVAL OF MINUTES**

#### **2.A Approval of the Planning Commission Work Session Meeting Minutes of January 28, 2019.**

[Draft PC Work Session 01-28-19.pdf](#)

#### **2.B Approval of the Planning Commission Regular Session Meeting Minutes of January 28, 2019.**

[Draft PC Minutes 01-28-19.pdf](#)

### **3. CITIZENS/PUBLIC COMMENT**

*A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.*

#### **4. ACTION ITEMS**

**4.A File No. 5-CUP-18 Final Order and Findings.**

[File 5-CUP-15.pdf](#)

**4.B Adoption of Planning Commission 2019-2020 Goals.**

**4.C Approval of Short-Term Rental Enforcement Memo.**

#### **5. PUBLIC HEARINGS**

#### **6. NEW BUSINESS**

#### **7. UNFINISHED BUSINESS**

#### **8. DIRECTOR COMMENTS**

#### **9. ADJOURNMENT**

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Conference Room A**  
**January 28, 2019**  
**6:00 p.m.**

**Planning Commissioners Present:** Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Bill Branigan, and Jim Hanselman.

**Planning Commissioners Absent:** Mike Franklin (*excused*).

**PC Citizens Advisory Committee Members Present:** Dustin Capri.

**Public Members Present:** Mona Linstromberg.

**City Staff Present:** Community Development Director (CDD) Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
2. **Unfinished Business.** No unfinished business.
3. **New Business.**
  - A. **Potential Amendments to NMC Chapter 14.21, Geologic Hazards Overlay.** Tokos reviewed his memo and noted that he had been contacted by Mona Linstromberg about requiring peer reviews in active hazards areas. Hardy asked for a definition of peer reviews. Tokos said they were a second set of eyes by a certified engineering geologist, or by an engineering geologist and geo tech if there was any structural remediation. Hardy questioned how many geologists had looked at the active hazard areas in Newport over the last 30 years. Tokos said there had been a range of geologists who had looked at these properties and had a number of reports from them. Hardy asked why these reports weren't good enough. Tokos said it was up to the Commission to decide if it was appropriated to initiate an amendment. He noted that where there was active earth movement this would be more controversial but it was worth a discussion on if an amendment was warranted.

Berman thought that given the nature of a geologic report and the level of complexity of a second opinion, it was a good idea. He said in a previous application the city had required the applicant to pay the city to get a peer review and thought it was a good idea. Berman thought it would be better to have the city be an impartial arbiter and with an impartial party looking at the report and have it paid for by the outfit. Hardy said they needed to set parameters for any kind of review. She said she noticed in the Lund case that site specific reports didn't address conditions that would impact from a little distance away. Berman thought they should set parameters for the report and if the report was inadequate the review should point this out.

Branigan wondered what would happen if one geologist gave approval and the other didn't. Croteau said that usually the way a peer review worked was the first person made a report and the report was given to the peer reviewer to say if it was good or if there were things to address. Branigan asked if the peer reviewer would do a site review. Tokos said they typically would do a desk peer review of the report, not go onsite. Hanselman said if there were questions brought up by the peer review it would give the city something to stand on because the Commission only had their own knowledge base to go by.

Berman asked Linstromberg if she was suggesting the applicant get the peer review done. Linstromberg said no, the city would administer the peer review and the applicant would cover the cost. The Commission questioned what the cost would be to do a peer review. Linstromberg said her experience had been that the

cost was somewhere around \$6,000. Capri stated he had a potential perceived conflict of interest in the matter. He stated his firm had geologic reports that he designed to. Capri said his one concern about this approach was that he was able to design at a differential level so that catastrophic failure wouldn't happen. For this reason he questioned the peer review report. Croteau said the second report wasn't designed to repeat the study but was to come up with a better idea than the original engineering report. Patrick asked if the peer review would review the geologic report or the engineering. Capri said he talked to a few geo techs and they said it was more of a narrative exercise. Croteau said a peer review was more about looking at the procedures and not repeating the study. Tokos said the Commission would want to designate what they wanted to be reviewed in the peer review and have it vetted with geologists. Hardy has concerns about peer reviews being done without a site review.

Tokos said peer reviews would be more for the active slide hazard areas. Branigan and Hardy didn't think a table top peer review was enough. Patrick suggested getting quotes of a typical project for a peer review that included going onsite to check the work on the first report. Croteau said this would in essence be asking for a second full geologic report and not what they were talk about here. They would be asking for a vetted report to see if the original report fit the standards. Hardy didn't think this accomplished the goal. Tokos said peer reviews would reduce the chances for an appeal because they would pick off deficiencies in the report. When the deficiencies were addressed and there was a recommendation that the site was still suitable, it reduced the chances for appeals. Capri asked what the harm would be to just have the applicant hire two geologists instead of the city hiring someone. Croteau and Patrick said it was a conflict because it was the same client. Tokos said a geo tech would be put on retainer with the city and they would make sure the firm had qualified geo techs and certified geologic engineers on staff. Hardy was concerned that a peer review wouldn't be what they needed in the end.

Branigan wanted to know what the cost would be for a peer review. Linstromberg said the recent peer review she had done was \$4,050 which included an onsite visit. Berman thought it was important to not put too much financial burden on the applicant.

- B. Planning Commission 2019-2020 Goal Setting.** Tokos reviewed his memo outlining projects going forward. The Commission would be setting goals on what they thought they should be working on for the year. Tokos noted that the Park System Master Plan (PSMP), the homeless taskforce, affordable housing, and the Transportation System Plan (TSP) were projects to consider. Berman asked what the homeless taskforce had to do with the Commission. Tokos said it could include changes to land use rules and changes to zones on where shelters and services were located.

Tokos noted that the TSP was about to start and would be a two to three year process. He explained how the Urban Renewal Plan was bringing in funding to do improvements for the TSP. Berman asked if there would be a consultant. Tokos said a consultant team had already been hired to design a visual of the space. Berman asked how input from the PSMP would get rolled into the TSP. Tokos said this plan included more than just vehicles. The Bike and Pedestrian Committee would be participating in this along with other key committees and stakeholder groups. Patrick asked if they could get the city to standardize their street sections and curbs. Tokos said they could to a point, but a part of it fell into engineering design guidelines.

Tokos reviewed special parking districts, short-term rental ordinance implementation, and economic development as goals as well. He noted there were some additional rules for new development in tsunami inundation zones to consider in the next year.

Croteau suggested an additional goal be to revisit the Nye Beach Overlay. Patrick wanted the rationalization of the city's boundaries and annexing parts of South Beach and islanded parcels to be included.

Tokos asked for input on what the Commission wanted to see as goals. Patrick said the PSMP and TSP were important, along with parking districts. Croteau didn't think there was much left to do on with short-term rentals. Capri asked about the affordable housing program to incentivize developers. Tokos said the only thing that wasn't completed was the vertical housing part of the program and the city was waiting on the State to give input on how to implement it.

Patrick wanted the tsunami mapping added to the goals. Capri suggested adding a discussion on industrial land. Berman wanted erosion control included. Patrick thought annexations should be included.

Tokos said what he heard was to that the Nye Beach Overlay, TSP, PSMP, tsunami mapping, and annexation were the top priorities.

- C. **Framing Issues for Short-Term Rental Enforcement Memo.** Patrick said that when the Commission went to the City Council they would have to argue that the Council should either go with the Commission recommendation or the staff recommendation instead of piecemealing. Tokos asked the Commission what they wanted in the memo and how they wanted to engage with the Council on their position on the issue. Berman asked if usually there were formal representatives for the Commission. Tokos said there were instances where there would be representatives. He suggested the Commission talk about how they wanted to engage the Council.

Berman and Patrick expressed that they would be testifying as individuals to the Council. Tokos said when the Commissioners were going in front of the Council they should express they were testifying as community members, not as Commissioners. Croteau and Patrick said they would be representing the Commission and the rest of the Commissioners that attended would be testifying as public members. Tokos said this would keep them from having to notice the meeting.

4. **Director's Comments.** No Director comments.
5. **Adjournment.** Having no further discussion, the meeting adjourned at 6:53 p.m.

Respectfully submitted,

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Sherri Marineau,  
Executive Assistant

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**January 28, 2019**

**Planning Commissioners Present:** Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Jim Hanselman, and Bill Branigan.

**Planning Commissioners Absent:** Mike Franklin (*excused*).

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Hardy, Berman, Croteau, Patrick, Hanselman, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of January 14, 2019.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission regular session meeting minutes of January 14, 2019 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.**

Mona Linstromberg addressed the Commission. She read a statement to the Commission concerning geological peer reviews. She stated that there needed to be triggers that mandated independent peer reviews; the code should require and stipulate that a peer reviewer needed to assess a technical application; and a peer reviewer must perform detailed analysis.

CM Hall addressed the Commission. She stated she was a Newport City Councilor and asked the Commission to review the Greater Newport 2040 Vision when setting their goals. She thanked the Commission for their service to the community.

4. **Action Items.** No Action Items.

5. **Public Hearings.** At 7:05 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Hardy, Berman, Croteau and Hanselman reported site visits. Patrick stated that he had performed work on the condo for which the conditional use public hearing was being held for at the current meeting. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File No. File 5-CUP-18 (Continued).**

Tokos gave his staff report concerning the request for relief of two off-street parking spaces for a potential vacation rental which recommended an approval to the request.

**Proponents:** Brian Palfrey addressed the Commission. He stated he agreed with staff comments. Croteau asked if Palfrey's unit had been used as a vacation rental (VRD) previously. Palfrey said it had been an active VRD as part of the Waves Motel. He noted that there might be another unit being used as a VRD in the complex presently. Tokos stated he couldn't confirm if there currently was another licensed VRD in the complex. Berman requested that Tokos confirm this. Berman said the conditions of approval stated that the owner would need to be in compliance with all other provisions, and noted that the garbage for the unit was not in compliance because it wasn't out of sight from the street. Palfrey said there was a dumpster that was located on the property which was for all the HOA. Berman asked that Palfrey check with Tokos to make sure this was in compliance.

**Opponents:** None were heard.

Hearing closed at 7:18 p.m.

Hardy didn't have a problem with the request. Berman said he didn't have any concerns but thought if all six units at this complex were VRDs it would become an issue. Croteau thought the request met the approval criteria. He was concerned that the unit had been used as a VRD before without inspections. Tokos said he wasn't sure how the Waves Motel was running it and there was no licensed unit in the complex. Hanselman didn't have a problem with the request but was upset that there was another unlicensed VRD in the community. He said he supported the request. Branigan said the request was straightforward and said the street stub had already been used for parking. Patrick agreed with Branigan and felt the request met the criteria.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman to approve File No. 5-CUP-18 with conditions. The motion carried unanimously in a voice vote.

Patrick asked if the whole condo complex building could be VRDs under the proposed new ordinance. Tokos said it would be allowed. Palfrey addressed the Commission and stated that that HOA only allowed for two units to be used at VRDs in the complex, not all six units. Hanselman asked how many of the condos were owned individually. Palfrey said they were all owned by individuals.

**B. File No. File 1-SV-18.**

Tokos gave his staff report. He noted that normally with a street vacation there wouldn't be a right-of-way dedication but it was done on this request because of the comments received by the Fire Department and the Public Works Department. Tokos explained that the Fire Department had no problem with the request but the City Engineer stated he didn't want the vacation given before they could review a full set of civil plan, and there was an accepted public improvement because the exact extent of the right-of-way dedication might change nominally as part of the process. They also had work to do with the applicant on utilities and would likely reserve a utility easement over the entire area. The alternative would be if the applicant wanted to go with a more refined easement, they could work up some concepts and have it reviewed by the City Engineer.

Berman asked if a dedication was an actual legal transfer of ownership to the City. Tokos explained this would be a glorified easement over a property to use it for street and utility purposes. When the applicant dedicated the right-of-way, they would be dedicating it to the public for the public's use of that space as a street and for pertinent utilities in that area. Hardy asked to explain Tokos' reference to Ferry Slip Road under "Typography and Vegetation" in his report. Tokos said this was a typo and should have been 62nd Street. Croteau asked if there was an issue with the Commission waiting until there was an acceptable set of plans submitted to the City Engineer. Tokos said this was a substantial cost to the developer and without certainty that the city would approve the vacation, it would be a difficult cost for them to bare. This approach would give the developer the certainty that the City would follow through provided the applicant completed the requirements. Berman asked how Tim Gross in Public Works felt about this approach. Tokos said Gross

was fine with this. Patrick asked if the Fire Department would see the final change. Tokos said they would review it. Berman asked if the Fire Department should be included as part of the approval in addition to the City Engineer. Tokos said if the Commission wanted to add this they could, but noted the Fire Department would already be a part of the review. He also added that the City Engineer wouldn't sign off on the approval without seeing an acceptable emergency vehicle turnaround.

**Proponent:** Leo Dobitz addressed the Commission. He stated he was the president of Southshore Owners Association and was acting as their representative. Dobitz said he agreed with the staff report. Branigan asked if all members of the Owners Association agreed with going forward with this. Dobitz said this was part of a bigger package on a land transfer agreement that required 80 percent approval of the ownership of Southshore. There were 80 percent of the owners that signed off on it.

Patrick asked if the reason for the application was to get away from having to maintain two gates. Dobitz explained one reason was to eliminate a two gate system and the other was to get the club house inside the gated community. Berman said he noticed that the vegetation was fully developed in the area and asked if they would continue to maintain the level of vegetation. Dobitz said as part of the CC&Rs they agreed to maintain 62nd Street from Highway 101 to its end. Their intent was to keep it aesthetically pleasing.

**Opponents:** None were heard.

Hearing closed at 7:35 p.m.

Branigan thought the applicant had completed everything necessary to go forward. He understood the City Engineer's concerns and why the applicant wanted the approval before moving forward. Branigan was in favor of an approval. Hanselman asked if the right-of-ways and easements would be outside of the gates. Tokos said the city already had utility easements behind the gates and had access to service all utilities there. Hanselman said he was in support of approving the request. Croteau thought the request was justified and felt there was enough constraints included to satisfy the City Engineer. He had no problem approving the request. Berman, Hardy, and Patrick were also in agreement to approve the request.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman to approve File No. 1-SV-18 and forward a recommendation to the City Council with the conditions indicated. The motion carried unanimously in a voice vote.

## **6. New Business.**

Patrick asked the Commission for a motion to review the geologic hazards overlay ordinance. Croteau gave his initial motion. Hardy requested that a definition on what kind of review and parameters were going to be considered. Croteau amended his motion to include Hardy's language. Branigan said he agreed with Hardy's request. Berman wanted Mona Linstromberg's testimony to be reviewed and included. Croteau agreed to amend the motion to include Berman's request. Tokos said what he had heard was that the motion was to see a peer review concept included in a draft set of revisions for consideration; that a peer review concept needed to include a specific set of parameters on what the peer reviews did; and that Linstromberg would have an opportunity to share thoughts in writing for Tokos to consider and share with the Commission. Berman requested the scope of the review include the entire ordinance.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to move forward with a review of the geologic hazards overlay ordinance to draft language to amend and add protocol for peer review as part of the process; define the types of reviews and parameters that would be considered; and include a review of Mona Linstromberg's written testimony. The motion carried unanimously in a voice vote.



Patrick opened the discussion about goal setting for the Commission. He said he wanted to make sure that the Commission looked at how their goals aligned with the Greater Newport 2040 Vision. Tokos said since the Commission had at least one more meeting before the City Council met, he was going to bring back the Commission's priorities in a draft form flagging strategies that aligned with the Greater Newport 2040 Vision goals. The Commission was in general agreement with this.

Patrick opened the discussion on a motion for the representatives to the City Council for the short-term rental ordinance amendment meeting.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman that the Chair and Vice Chair be representatives to the City Council regarding the revised vacation rental ordinance at their upcoming meeting on February 19, 2019. The motion carried unanimously in a voice vote.

7        **Unfinished Business.** None were heard.

8.        **Director Comments.** None were heard.

9.        **Adjournment.** Having no further business, the meeting adjourned at 7:42 p.m.

Respectfully submitted,

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Sherri Marineau  
Executive Assistant

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF NEWPORT,  
COUNTY OF LINCOLN, STATE OF OREGON**

<b>IN THE MATTER OF PLANNING COMMISSION</b>	)	
<b>FILE #5-CUP-18, APPLICATION FOR A</b>	)	<b>FINAL</b>
<b>CONDITIONAL USE PERMIT AS SUBMITTED BY</b>	)	<b>ORDER</b>
<b>BRIAN "RIAN" PALFREY, OWNER</b>	)	

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**ORDER APPROVING A CONDITIONAL USE PERMIT** per Chapter 14.25.020(E)/"Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC) for approval of a two-bedroom condominium unit at 801 NW Coast Street (Unit 1) where the requirements of NMC 14.25.050 for off-street parking spaces cannot be met.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held public hearings on the request, with the initial hearing on January 14, 2019 being immediately continued to January 28, 2019 at the owner's request; and
- 3.) At the January 28, 2019 public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested conditional use permit with the following condition(s):

1. The applicant/owner shall make application for an endorsement for a vacation rental pursuant to NMC Chapter 14.25, and is subject to inspection by the Building Official or designee to determine conformance with basic health and safety elements and the endorsement standards of 14.25.050, except the requirements for parking outlined under NMC 14.25.050(C).

**BASED UPON THE ABOVE**, the Planning Commission determines that the request for a Conditional Use Permit to authorize a vacation rental in Unit 1 of the Ocean Vista Condominium complex (801 NW Coast Street) is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 11<sup>th</sup> day of February, 2019.

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James Patrick, Chair  
Newport Planning Commission

Attest:

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Derrick I. Tokos, AICP  
Community Development Director

## EXHIBIT "A"

Case File No. 5-CUP-18

### FINDINGS OF FACT

1. The property owner, Brian "Rian" Palfrey, submitted an application on November 15, 2018, for approval of a Conditional Use Permit, per Chapter 14.25.020(E)/ "Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code, for approval of a vacation rental in a two-bedroom condominium where the requirements of NMC 14.25.050 for off-street parking spaces cannot be met.
2. The subject property is located at 801 NW Coast Street, Newport, Oregon 97365. It is Unit 1 of the Ocean Vista Condominium complex and is identified on Lincoln County Assessor's Map 11-11-05-CB, Tax Lot 90000 (common area) & 90001 (unit). The parcel is approximately 12,632.4 sq. ft. in size per Lincoln County Tax Assessor records.
3. Staff reports the following facts in connection with the application:
  - a. Plan Designation: Commercial.
  - b. Zone Designation: C-2/"Tourist Commercial." The property is also within the Historic Nye Beach Design Review Overlay and Parking District.
  - c. Surrounding Land Uses: Waves Motel to the east, Lighthouse Lodges Condominiums and the Inn at Nye Beach to the south, undeveloped city-owned oceanfront open space to the north, and the Pacific Ocean to the west.
  - d. Topography and Vegetation: The site is level where the condominiums were built and there is a flat fenced yard between the units and the edge of the bluff. From the bluff, the property drops steeply down to the beach.
  - e. Existing Structures: Six condominium units.
  - f. Utilities: All are available to the site.
  - g. Development Constraints: Property is within the city's Geologic Hazards Overlay.
  - h. Past Land Use Actions: File No. 9-GP-07. Geologic Permit for reconstruction of the roof.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on December 12, 2018, to affected property owners required to receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 5:00 p.m., January 14, 2019, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on January 4, 2019. No written comment was received in response to the notice. The Planning Commission, on January 14, 2019, granted the applicant's request to continue the hearing to January 28, 2019.
5. A public hearing was held on January 28, 2019. At the hearing, the Planning Commission received the staff report and heard testimony from the applicant. The minutes of the January 28, 2019 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments

is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Completed application form
- Attachment "B" – Application narrative and exhibits
- Attachment "C" – Supplemental maps from applicant
- Attachment "D" – Applicant's photos of the unit and parking areas
- Attachment "E" – Public hearing notice
- Attachment "F" – Email from Rian Palfrey requesting continuance
- Attachment "G" – Zoning map of the property
- Attachment "H" – Aerial image of the property

6. Pursuant to Chapter 14.25.020(E)/"Bed and Breakfast and Vacation Rental Facilities – General Provisions" of the Newport Municipal Code (NMC), if one or more of the standards required under Section 14.25.050 cannot be met, an owner may seek approval of a vacation rental or bed and breakfast use as a Conditional Use, pursuant to 14.34.010. A Conditional Use Permit may allow relief from one or more of the endorsement standards of 14.25.050, but does not excuse the general endorsement requirements of 14.25.010. With this application, the applicant is seeking approval of a conditional use permit because the existing condominium unit does not meet the requirements for one off-street parking space per bedroom.

7. City building records show that the Ocean Vista Condominiums were constructed in the late 1960's. The units were previously used as apartments and the "Oceanview Motel," before being converted to condominiums. Assessment records show a year built date of 1972, which was a date when the structure was substantially renovated.

8. The applicant notes that they recently purchased Unit 1 of the Ocean Vista Condominiums. It is a two bedroom, 700 square foot unit. The applicant points out that none of the units possess off-street parking and that given the fact that the back yard is fenced, landscaped, and at the edge of a bluff, it is not possible for them to construct off-site parking spaces that fall within the property lines.

9. The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

## CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

*A. Criterion #1. The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets (including parking) and electricity. The application materials (Attachment “B”) and photographs (Attachment “D”) show that the condominium is located in a developed commercial area where these public services are available.
2. The applicant’s findings (Attachment “B”) indicate that the portion of NW 8th Street immediately adjacent to their unit is not a through-street. Rather it is a gravel area that is fenced and borders the ocean. They note that the space has been used for parking and trash collection for decades and that there is more than sufficient space for two vehicles to park on their side of the street.
3. The aerial photograph of the property from 2018 (Attachment “H”) illustrates that additional parking is available along the condominium development’s NW Coast Street frontage on both sides of the street.
4. It is not uncommon for residences in Nye Beach to lack off-street parking. In such cases, the Planning Commission has assessed whether or not (a) it is feasible for the owner to construct off-street parking and (b) on-street parking assets are adequate to meet anticipated demand in cases where off-street parking cannot be provided. With regards to the subject property, the units were constructed in the 1960’s without off-street parking and have been used for transient and non-transient purposes over the years without any apparent issues. Further, this particular section of NW Coast Street is just beyond the most travelled portion of the roadway and lacks connectivity to the north, making it an isolated section that is unlikely to attract the levels of tourist-oriented traffic that other sections of the roadway experience. The irregular size of the lot, its proximity to the bluff, and the location/orientation of the building within the lot, make it extremely difficult, if not impossible, for the owner to construct off-street parking.
5. The property is within the Historic Nye Beach Design Review Overlay, which reduces off-street parking requirements for residential and commercial uses, allowing them to claim adjoining on-street spaces to help meet their parking requirements. Further, the overlay stipulates that the first 1,000 square feet of commercial gross floor area is to be exempted from the off-street parking calculation (NMC 14.30.100(A)(6)(a)). The applicant’s two bedroom unit is 700 square feet in size.
6. In addition to the overlay, the property is within the Nye Beach Parking District. The District was established to actively manage the on-street parking supply to ensure spaces are available for a range of potential users and is an alternative to the typical off-street parking requirements established in the Zoning Ordinance (NMC 14.14.100). Management techniques include parking time limitations and permits for high traffic areas. On-street parking spaces adjacent to the subject

property are not managed in this manner, which suggests that they do not receive the pressure from users that other areas in Nye Beach experience.

7. Taken as a whole, it appears that there is adequate parking available within the public right-of-way to accommodate the needs of all users and that this request for relief from the two off-street parking space requirement will not result in an increased demand on parking facilities or any other public facilities. Therefore, the Commission concludes that the public facilities can adequately accommodate use of the condominium unit as a vacation rental.

*B. Criterion #2. The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The subject property is zoned C-2/"Tourist Commercial" and it is within the Nye Beach Design Review Overlay District. The applicant notes that the subject property is located in a C-2 commercial zone, is classified as a commercial condominium (Ref: Exhibit B and C, Attachment "B"), and was previously used as a vacation rental by the Waves Motel before they purchased it. Guests at that time used parking to the side and in front of the property. The applicant further indicates that the area as a whole accommodates multiple other vacation rentals, hotels and motels (Ref: Exhibit D, Attachment "B"). This is consistent with the purpose of the C-2/"Tourist-Commercial" zone district to "provide for tourist needs, as well as the entertainment needs of permanent residents" (NMC 14.03.040). Vacation rentals are now, and have historically, been permitted outright in the C-2 zone, and the conditional use permit process is available to those applicant's that are unable to meet all of the endorsement standards.

2. The purpose of the Nye Beach Design Review Overlay is to regulate the design and architectural appearance of buildings (NMC 14.30.010). It further sets out dimensional and parking standards for new development. The provisions of the overlay district trigger when buildings are modified (NMC 14.30.040). The applicant is not proposing changes to the existing structure and; therefore, is not required to demonstrate compliance with the standards of the Design Review Overlay District.

3. Given the above, the Planning Commissions concludes that this criterion is satisfied.

*C. Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.*

1. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts." Impacts are defined in the Zoning Ordinance as the effect of nuisances such as dust, smoke, noise, glare, vibration, safety, and odors on a neighborhood.

2. The applicant notes that the proposed vacation rental use is consistent with the historical pattern of use of the property and other developments in the area and; therefore, will not create "adverse impacts" greater than existing uses.

3. Given the above, the Planning Commission concludes that this criterion has been satisfied.

D. Criterion #4. *A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.*

1. The applicant is not proposing to modify the building; therefore, it is reasonable for the Planning Commission to conclude that this approval standard is not applicable.

### **OVERALL CONCLUSION**

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit to convert an existing residence to a vacation rental dwelling can satisfy the approval criteria for a conditional use and is hereby approved with the imposition of the following conditions of approval:

1. The applicant/owner shall make application for an endorsement for a vacation rental pursuant to NMC Chapter 14.25, and is subject to inspection by the Building Official or designee to determine conformance with basic health and safety elements and the endorsement standards of 14.25.050, except the requirements for parking outlined under NMC 14.25.050(C).