

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**December 9, 2019**

**Planning Commissioners Present:** Gary East, Lee Hardy, Bob Berman, Mike Franklin, Jim Hanselman, Bill Branigan, and Jim Patrick.

**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 East, Hardy, Berman, Franklin, Hanselman, Branigan, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of October 28, 2019 and the Work Session Meeting Minutes of November 12, 2019.

Commissioner Berman submitted minor corrections to the minutes.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the Planning Commission Work and Regular Session Meeting Minutes of October 28, 2019 and the Work Session Meeting Minutes of November 12, 2019 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:02 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. Commissioners Franklin, Hanselman, Branigan, and Patrick reported site visits. 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 2-SV-19.**

Tokos reviewed his staff report. He pointed out areas where the right-of-way (ROW) would be widened and where it would be vacated. Tokos reminded the Commission that the vacation was not for construction. They were trying to get the ROW configured so it could meet the needs of the adjoining properties, and insuring that the utilities were developed properly.

Berman asked if the part of the ROW that would be vacated would have any implications for future development on Harney Street. Tokos explained there wouldn't be any because they were matching up with the existing planned ROW width for that type of street. Branigan asked if the red triangle area on the map, on Harney and 31st Street, had any pavement plans to make it easier for vehicles to turn. Tokos explained there wasn't any immediate plans. The long term future of 31st Street was part of the Transportation System Plan (TSP) Update and there would be more discussion on the street. The ROW width was sufficient for a minor arterial and wouldn't get any larger than this.

Franklin asked if the black line for 31st Street illustrated on Exhibit "A" was an old route. Tokos reported it was an initial cut by Wyndhaven to begin to frame the issue for the City Council. The map that had been shown to the Commission at the meeting was more refined.

Berman asked if the blue line on Attachment "C" should be 31st Street. Tokos confirmed the labeling should have been 31st Street. Berman asked if Harney St went outside of the city limits and if it could potentially be a problem. Tokos said the exhibit showed it correctly and the street might go outside of the City limits and UGB. There was a fully developed roadway that would be something to address in the future, but it wouldn't affect this project.

Patrick asked what the width of the Harney ROW was. Tokos didn't have the measurements but noted it would match up with the width identified for a minor arterial. Hanselman asked if no City utilities would need to be moved. Tokos explained this was correct, there would be no physical alterations with the vacation. When the Commission made a recommendation to City Council, Wyndhaven would prepare legal descriptions that would describe the areas that would be vacated in blue and the areas that were dedicated in red, then describe an easement reservation over the portions that were blue, south of 31st Street. If the developer moved the water lines in the future, the City would look to release that easement reservation.

Branigan asked if this was the only road that needed to have a ROW adjusted in the City. Tokos explained this was an instance brought to the City's attention by Wyndhaven to do planning for developable properties. There were other locations in the City that needed adjustments to ROWs, and areas where there were unknown ROW dedications. The City would need to do street legalizations in the unknown areas. Big Creek Road was the last legalization that was done. There are sections of Oceanview Drive ROW that needs to be legalized as well. Branigan wanted it noted that the whole City needed to be reviewed to get everything taken care of. Patrick asked if this would be part of the TSP. Tokos noted that TSP identified project priorities. For priority projects the City would first look at the ROWs and what needed to be handled first.

Hanselman noted at one time there was a slip in the road and asked if the new alignment of ROWs would give the City a greater opportunity to move the road to better footing. He also wanted to know what DOGAMI said about the hillside between 31st and 32nd Street. Tokos couldn't speak for DOGAMI but noted the City had addressed stability issues along 31st Street in the past. There had been a discussion on if they should retain the full the alignment as a long-term through road. Tokos thought that when 36th Street was constructed they intended to replace this portion of the road because of its chronic issues, but policy makers decided to keep both roads open. They could choose to change this sometime down the road, if necessary.

Proponents: Todd Woodley, manager of Wyndhaven Ridge, addressed the Commission. He noted that Wyndhaven would be bearing the expense for the engineering and recording of the street vacation. The basis of their application right size the ROW all the way to Highway 101. Woodley explained that the intersection of Harney and 31st Streets, noted as the red triangle on the map, was for provisions to widen the intersection radius if the City chose to improve the road in the future. He noted the map was an overlay of property boundaries and the issue of whether the triangle area got paved or not, would be a separate matter.

Franklin asked if Wyndhaven was ever responsible for the costs of repairing the road in the past when there were slides. Woodley said they hadn't been given any bills for repairs to the road. Franklin asked by vacating the land would they then be exempt from future costs to repair slides. Woodley didn't think they would. Berman asked if the City decided to not use the road and require people to use 36th Street, what kind of problems would it present to their development and would the developers consider stepping up to make it a private road. Tokos explained that if the City elected to eliminate it as a through roadway, 36th Street and Highway 101 would need to be signalized. This was already a priority in the TSP and the City is collecting system development funds to help pay for the work. The City would partner in the signalization and the developer that tripped the need would have a financial obligation to contribute to signalization. Tokos noted the City needed to sort out Big Creek Road to decide if they wanted to keep it one way. This will be part of the TSP. There are only a few means of access to the area and there is quite a bit of

undeveloped properties and existing neighborhoods in that area. The city needed to think strategically about which points of access to lean on to make sure they existed in a proper way. Berman asked if there was already a requirement for signalization, and was the City already getting non-remonstrance agreements. Tokos would look into this, and if there weren't any agreements the City would follow up with the owners of those properties once signal warrants are met. He noted there were a lot of agreements off of 73rd Street and this was another area for potential signalization if they got enough side street trips to meet Oregon's warrants for signalizing. Hanselman asked if the City had any idea how close they were to meeting the warrants. Tokos explained they didn't know off hand, but each time there was a new development of any size, a transportation analysis would be done and this was the time the city would take a look to see if it met the number of required vehicle trips.

Opponents: Elaine Lynch, manager of the Pacific Homes Beach Club Park, addressed the Commission. She stated that she and members of the HOA were in attendance to listen to the proceedings and asked questions. Lynch noted that the owners above 31st Street were concerned that widening the road would risk the slopes. She was also concerned that widening the roads would mean an increase of traffic and change the tenor of the neighborhood. Lynch hoped the City would consider making 31st Street a one way street to alleviate any negative impact to the area. She thought it was premature to consider the vacation because the intent wasn't know.

Hearing closed at 7:35pm.

Branigan thought the vacation proposal satisfied the standards. He would recommend it to the City Council and wanted to include the utility easement reservations and dedications of ROW by Wyndhaven Ridge concurrent with the vacation of portions of 31st Street. Hanselman felt the application met the criteria. He liked the idea of 31st Street being designated as a one way street but thought that decision would be made later by the City Council. Hanselman wanted to pass along to the City Council that the vacation and concerns for 31st Street's future should be a part of the TSP Update. He would vote to recommend.

Franklin didn't have any problems with the request and thought it was a positive step to clear up concerns. Berman thought the criteria had been met and there needed to be some serious thought given to changing 31st Street to a one way street. As the TSP representative, he would see if he could get it included. Hardy was in favor of recommending it to the City Council. She didn't think it made sense to change 31st Street to be one way. East thought it should be sent to the City Council. He thought that as plans came in for site development there would be plenty of time to address issues. Patrick agreed to send a recommendation to the City Council. He thought this fixed issues with the development and the City. He suggested the issues for the street be brought to the City Council.

**MOTION** was made by Commissioner Branigan, seconded by Commissioner East to approve File 2-SV-19 and forward a favorable recommendation to the City Council. The motion carried unanimously in a voice vote.

**B. File 5-Z-19.**

Tokos reviewed his staff report. He pointed out the areas on the Nye Beach C-2 zoned map where the amendments would apply. He reported the property owner at 620 NW Alpine St was in support of the action and wanted to build a house or duplex on their lot. Tokos noted he heard from the neighbor of the Alpine property, Mr. Chenoweth, who wanted the Commission to know he supported the amendments as well.

Franklin asked what the reason was to include the section of Coast Street, north of NW 8th Street, when the right side of the street was already developed. Tokos said this area went in as permissible with the 2008 amendments and explained why it was included. Hanselman asked if residential in the Nye Beach Overlay was restricted to a 1,250 square foot footprint. Tokos explained it was not. The 1,250 limitation was for development standards that applied to density, meaning there could be one unit per 1,250 square feet of land, provided they could meet parking, setbacks, and didn't cover more than 64 percent of the property. Hanselman asked if someone could build a larger house on a double lot and still stay within the 64 percent,

but end up with an edifice that didn't fit within the historical Nye Beach. Tokos noted in the Engelmann/Boyles case they had one house on two lots. He reported the Nye Beach Overlay included thresholds for guideline reviews for length of a building. Tokos explained that if the building was over 65 feet in length, or 35 feet in height, it would be a triggering threshold. Buildings below that are subject to clear and objective standards.

Hanselman asked if there were any density standards for Short-Term Rentals (STR) in the C-2 zones. Tokos said the STR ordinance said in the commercial and water related zoned, the preexisting STR dwellings could continue as such and sold as such, notwithstanding the density limitations. When new STRs came into the area, they would need to meet the spacing requirements and the cap on the number of STRs. Hanselman didn't want to see residences turned in the STRs when there needed to be more long-term rentals. He was concerned that there weren't any density restrictions for STRs in the Nye Beach Overlay. A discussion ensued on the capped number of STRs in the overlay zone and how new homes would have restrictions on STR licensing. Berman asked if spacing standards applied for new STRs in the C-2 zone. Tokos confirmed they did.

Berman asked what the parking requirements were for building residences in the Nye Beach Overlay. Tokos explained that the ordinance said that if there was one full parallel parking space in front of the property, they could count this as a parking space. A discussion ensued regarding the way parking was counted for residential and commercial in the C-2 zone.

Franklin asked if the rules could work backwards and a commercial business could change to residential. Tokos said any business that currently fronted Coast Street and was south of NW 2nd Court could have residential at street grade under the 2008 rules. If a business went away they could do something else at street grade. If it was currently north of NW 2nd Court and south of 6th Street, residences at street grade were limited to what existed in 2004.

Public Testimony: Mona Linstromberg addressed the Commission. She expressed concern about STRs in the C-2 zone and hoped that unintended consequences could be avoided.

Wendy Engler addressed the Commission. She handed out a photo of a property on Cliff Street and explained that the intent was to have development in the Nye Beach areas be walking streets combined with traffic. Engler didn't have any problems with the items discussed at the hearing. She reminded the Commission that Kathy Cleary talked about the C-2 zone areas that weren't addressed in the last amendments. Engler noted that the lots on Cliff Street she showed were for sale and the only people who wanted to buy it wanted to build one large home on them. Engler urged the Commission to take a walking tour of the area to see what had been built. She wanted to see small scale residential encouraged, and asked the Commission to think about properties that weren't long term and would be redeveloped. She also asked the Commission to think about what they wanted Nye Beach to look like in five years. Engler reported that the DLCD TGM program needed staff support and it would be a great way to engage the neighborhood and meet housing needs.

Engler asked what the rules were for residential mixed in commercial such as landscaping. Tokos noted that there are no landscaping requirements for residential use, but pointed out that lot coverage restrictions would mean that part of the lot would have to be left open. The 64 percent lot coverage applied to residential unless they did underground parking, which changed it to 90 percent. Commercial/Residential would have to be within five feet of the front property line. A discussion ensued regarding setbacks and lot coverage for commercial and residential in commercial zones. Patrick was concerned that people could convert commercial properties that were built larger than what was allowed for residential and then later convert the buildings to residential. Tokos said he hadn't seen that done because structures built to commercial code aren't typically conducive to a residential space. He noted that commercial construction was more expensive to build than residential. Engler thought there were no landscaping required for the lots that were built in Nye Beach. Tokos said there were no landscaping requirements in Newport. Engler thought landscaping should be part of the Nye Beach design. Hanselman explained that if design review for residential use went to the Director under clear and objective standards, there wouldn't be a landscaping

requirement. If design review went to the Commission, it would have a landscaping requirement. Engler suggested looking into how landscaping and impermeable surface requirements complied with the character of Nye Beach.

Hearing closed at 8:26pm.

East thought the Commission should approve the decision and noted there were a lot of other issues that needed to be addressed. He thought for the purpose of allowing flexibility for development, it was good amendment. Hardy thought they should forward the recommendation as crafted. Berman and Franklin agreed. Hanselman was fine to pass a recommendation to City Council. Branigan thought it made sense to pass it along to the City Council. Patrick thought they should pass it along to the City Council. He liked the idea of increasing choices so people could go either way for commercial and residential.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Franklin to approve File 5-Z-19 and forward a favorable recommendation to the City Council. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.**

Tokos noted he would be doing interviews for the open planner position on Tuesday, Dec 10th. Second interviews would happen in mid-January. Tokos hoped they would have someone on hired by early February.

Tokos reported there would be a City Council work session on parking on January 6th. They are taking it to a work session to understand the recommended package from the Parking Committee. The City Council hadn't made any decisions yet.

Tokos noted there would be a work session and regular session meeting for the Commission on January 13th. He would be providing an updated work program at these meetings. Tokos explained that the City Council asked staff to work on a car camping ordinance as part of the homelessness taskforce recommendations. This would be picked up in a work session meeting as there are land use ramifications.

Tokos reported that the 32nd/35th Street and Highway 101 signalization/Urban Renewal project in South Beach was moving along with ODOT having prepared advanced plans. They were just about done with the planning piece and going through to ROW acquisition. When this was done, construction would start by winter of 2020 and would extend into spring/summer 2021. He noted that all the planning work for the project had been done and it was a fully budgeted project.

Tokos would be attending another rule making meeting on House Bill 2001 and 2003 on December 16th to help with developing rules for infrastructure exemptions. He reported there would be no other Planning Commission meetings for 2019.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:34 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant