Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, October 28, 2013

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

Commissioners Absent: Glen Small *(excused).*

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, McIntyre, Croteau, Patrick, Fisher, East, and Branigan were present; with Small absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of September 23, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner McIntyre, 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 7:02 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 and East both declared site visits. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

Quasi-Judicial Actions:

1. File No. 2-NCU-13: Consideration of a request submitted by Douglas & Verna Fitts (Dennis Bartoldus, authorized agent) for approval of a request per Section 14.32/"Nonconforming Uses, Lots, and Structures" of the Newport Municipal Code, for the alteration and expansion of a nonconforming use. The property is currently being used as a mobile home park (Surfside Mobile Village). Specifically, the applicants are requesting to be allowed to have 24 permanent spaces and 3 RV spaces; expand the park for a screened storage area; and to be able to replace mobile homes with "park model" homes. The property is located at 392 NW 3rd St (Lincoln County Assessor's Map 11-11-05-CD; Tax Lots 10500, 10600, 10501, 10700, 10800, 10300, 10200, 10100, 9900, 9800, 9700, and 9500).

Patrick opened the public hearing for File No. 2-NCU-13 at 7:03 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the meeting packet material included the staff report, which includes the description of the request, the relevant criteria, and staff analysis related to those. He said that the staff report included a number of attachments, and he went through those. Tokos said that the request before the Planning Commission is for the alteration and expansion of a nonconforming use. The standards required by the NMC are outlined in the staff report. The first is verifying the nonconforming use. That must show that the use was lawfully adopted and no longer complies with the code. The property was zoned R-4 in 1973. The standards within that zone have changed for manufactured home construction. The set of standards for a manufactured home park today is different than in 1973. That is why this use is nonconforming.

Tokos said that there are some issues of verification that still need to be addressed related to the original 1973 approval, which covered a portion of the park. The entire park wasn't covered under that permit; namely, Tax Lots 10600 and 10800 were not part of that original approval. Tokos said that the applicant needs to submit additional information to establish those were lawfully established at the time. Assuming the Commission can verify that what is there is nonconforming, then the question is if the expansion as proposed will cause any greater adverse impact; and Tokos went over the list of criteria against which the application is evaluated to determine that. Tokos noted that Attachment "F", the 2007 aerial photo, shows the two proposed expansion areas in green. He said that there are a number of residences along NW 5th Street where the proposal is for storage. In the staff analysis, it states that the applicant needs to provide additional clarification on what is being proposed there. Tokos said that he understood, however, that tonight the applicant will be proposing to remove that area.

Tokos said with respect to the adequacy of water, sewer, and storm drainage, one of the things the applicant should clarify is exactly where the lines and the easements cut through the property relative to where the units are placed so that we can confirm that those lines are able to be serviced. Tax Lot 10700 is where the additional units are to be placed. It is oriented toward 3rd Street, and given the terrain, vehicle access will likely be off 3rd Street through a driveway with a turn-around. It needs to be depicted on the site plan so we can determine if it is adequate for the fire safety standards part of the statute. Tokos noted that the Commission will find discussion in the staff report that one standard requires that each lot has to be 30' x 40'. He said that it appears that all units meet that except for one, No. 25; but he believes this can be done by revising that space. The applicant needs to look at that. Tokos said that the Commission may want to consider requiring that the new units, or as units are replaced, meet the current manufactured dwelling code. It should be addressed as they are swapped out or newly constructed.

In the matter of sidewalks, Tokos noted in the staff report that Hurbert does not have them by and large. He said that one thing for the Commission to weigh, is that frontage improvements are typically addressed when there is development. The Commission may want to consider whether this development warrants that sidewalk should be installed or whether a non-remonstrance agreement would suffice. He said that, as the Commission is aware, that's not an issue on 3rd Street where the City just put in sidewalk as part of an infill project between Coast and 101.

Tokos said those are some of the different factors involved with the application. Staff's recommendation is that the Planning Commission not make a decision tonight; but take testimony and let the applicant make changes to the proposal. Based on what they hear, the applicant can bring the proposal back in a condition where action can be taken in a future meeting.

Proponents: The applicant's representative, Dennis Bartoldus, PO Box 1510, Newport, testified along with the applicant, Doug Fitts. Bartoldus said that as Tokos had indicated, tonight they would address some of the issues listed in the staff report and have the hearing continued to the next meeting where they can answer questions that might be raised at this hearing and make some of the changes Tokos discussed. Bartoldus said they are proposing 31 total lots; 24 are mobile homes, and 7 are RVs. He noted that this park has existed since the 70s. The only additional units being proposed by this application would be on Tax Lot 10700, which would be three mobile home sites with something like the park models the Commissioners have seen. Bartoldus said that one of the things that is important is that as noted in the application this is housing for seniors. This is housing for individuals 55 and older and really does provide affordable income housing. Bartoldus said it is an amazing park in how it has been maintained. It is neat and clean and well laid out, and the buildings are in very good repair. Bartoldus noted that the reasons they did this as an alteration and expansion of a nonconforming use was not only because of the three units but also basically to verify what has been existing for a number of years. Bartoldus said that he understands that Tokos wants more information, and they can provide that. Bartoldus said that one thing he noticed in the 1973 approval for Tax Lot 10500 is that it showed the legal description as Lot 2 Block 10, which should include Tax Lots 10600 and 10700. He said, thinking back at the time of the application, what they intended was to include Tax Lot 10600; which were old cottages existing at that time. The cottages were taken down at some point of time and replaced with manufactured homes. Bartoldus thinks largely this has been approved in the past, but they can give additional information on that.

Bartoldus said one thing that they will be providing to the three units on Tax Lot 10700 is a driveway from 3rd Street with a turn-around in the middle of that. He said with regard to the easements; there are a couple recorded in the 60s and 70s. They can locate those and would address that. He said they are not changing any improvements where the easements exist. There is nothing new there; only on Tax Lot 10700, and there are no easements through there. He noted that if there is something over the easement now, it has been for 30-40 years. Bartoldus noted that Fitts has indicated that a while back, the City put a liner inside the sewer line, and they had no trouble doing that. He said they can talk to Public Works. They are not putting in anything that is not already there that hasn't existed for many, many years; but they can work with the City on that. He said there is an issue with the storage area, and they understand the concern about that. Bartoldus said that after talking with his clients, they are going to withdraw Tax Lots 9500, 9700, 9800, 9900, 10100, 10200, and 10300 from the application entirely. Those are the residentially zoned lots along 5th Street, and there is quite a difference in the terrain there from the rest of the park. That was going to be storage, but it's not critical to the proposal. So, they chose to just go ahead and remove that proposed storage area from the proposal. Bartoldus said that there had been some comment about fill material. He noted that was actually placed there by the City who asked if they could deposit fill material along there. One other issue was sewer and water within the park. All units are connected to the system in the park. Space 25 on the drawing is shown as having a smaller area. He just went back by that, and they can easily accommodate a 30' x 40' lot size. The street width will still exist. They will submit a revised drawing.

Bartoldus said that as he had mentioned, the reason they are doing this as an alteration and expansion of a nonconforming use is to make sure everything is brought together under one roof and everything has been properly approved. Some approvals were old and some were a little less than crystal clear than with what exists today. So, they thought that as long as they were adding three units, it would be wise to address all of those issues all at once. Bartoldus requested that the hearing be left open to provide additional comments until the next meeting on November 12th. He thought the Planning Commission could make a decision at that time.

Patrick asked if he understood correctly that they were completely withdrawing the storage area proposal. Bartoldus confirmed yes, completely. He said those are legal lots that would just retain the R-4 zoning and would be individual lots for the future. Branigan asked if there are only three lots that they would be putting park models on. Bartoldus said yes; Tax Lot 10700 would be divided into three mobile home spaces that would have park models on them.

Fitts noted that old single-wide homes are becoming a thing of the past. They are only good for so many years. They will be torn out and will require a new one coming in. Most all new homes have pitched roofs, sheetrock walls, and Hardiplank siding. People can't get financing on mobile homes through banks. That is why park models, or whatever, are good. Fitts noted that in the last three years they have had vacancies that they never have had before. He said that as the Commissioners can see on the brochure for the park model, they look pretty nice. He noted that the individuals own their homes in the park. McIntyre asked what the lot sizes would be for the park models, and Fitts said 40' x 30'. Tax Lot 10700 will be the parcel they are on, and it can provide the lot sizes. McIntyre agreed that it is 60' deep at the present time.

There were no other proponents present wishing to testify.

Opponents or Interested Parties: John Howell, 396 NW 5th Street (Tax Lots 9000 and 8900). Howell said that he is not really opposed but wanted to make a point of clarification in terms of the material submitted. One of the applicant's findings of facts states that north of 5th Street, some of the single-family residences have lots less than 3,000 square feet. He said that one of his lots is less than 3,000 square feet, but he also owns the lot next to it. He believes that the house at 384 NW 5th Street on Tax Lot 8800 is on 3,150 square feet. Howell just wanted the Commission to be aware of the lots on the other side of 5th Street in case the storage area comes into discussion again; he understands that it has been withdrawn.

James Warren, who lives up off 3rd Street on Lee Street right above Tax Lot 10700, made a comment. He noted that the park models will be just to the west of him. He said that Fitts keeps his place really well and is always working on it. Warren said that he has full faith that Fitts will continue to do that. One thing Warren is concerned about is generator noise. He wondered if that is one of the things being considered. Will any of these park models be using generators? He said that the RVs that do use them really shake their house, and he has a concern when those fire up. He said that if the park models use generators on a regular basis, then that would be something he was opposed to.

Patrick read into the record a letter from James Raske, 406 NW 5th Street, which was hand delivered by a neighbor because Raske was unable to attend the meeting to provide his oral testimony. Raske's letter stated the reasons why he did not want the storage on 5th Street and asked that he be kept updated because he had to work rather than attending the hearing.

There were no other opponents or interested parties present wishing to testify.

Rebuttal: Bartoldus and Fitts returned for rebuttal. In regard to Mr. Warren's concern over the use of generators, Fitts noted that all park models that are going up on that lot will be permanently fixed to electricity. They are not RVs, although technically he guessed park models are considered as RVs. They will be permanently placed. Fitts said they wouldn't allow that in the park.

Bartoldus said that one of the concerns that Mr. and Mrs. Fitts have is that 5th Street is narrow, only about 20 feet of right-of-way; but many people think that they can use the Fitts' property for parking. He said that he had snapped a photo tonight of a car parked on the Fitts' property. Bartoldus said that the Fittses are not putting storage on their property and would ask people to respect their property lines as well and understand that is private property.

Again, Bartoldus said that they are requesting that the hearing be continued until November 12th to address the matters Tokos had indicated. He said that they are glad to do that in order to make sure the record in this matter is complete.

MOTION was made by Commissioner Branigan, seconded by Commissioner Croteau, to continue the public hearing for File No. 2-NCU-13 to November 12th in order to address the concerns that staff has and consider the additional information that Bartoldus said they would provide. The motion carried unanimously in a voice vote.

F. <u>New Business</u>.

1. Branigan's notes from the Planning Commission training that he and Fisher had recently attended had been shared with the rest of the Commissioners. He said that he found the training to be very informative. It brought him up to speed on a lot of parts of what Planning Commissions do. He said a lot had to do with LUBA and various cases, and what had been done this year. The other part was a panel of Planning Commissioners, mostly from the Portland area, talking about specific projects and hurdles they had to overcome.

Fisher said that they had pointed out that next year's meeting is in Eugene, which would be easier to attend without having to stay over. He thought that for once this was a worthwhile group session and was four hours well spent. He noted a couple of things. They talked about that on quasi-judicial matters you don't go seeking information. Look at the information that is presented here; don't go any further than that. However, on legislative matters, feel free to dig away. You can try to learn as much as you can on those. He thought that Branigan did a good job of taking notes.

Tokos noted that next year he will be budgeting training funds again as he did this year. He thought it would be great if another one or two Commissioners would go to the next LOC training.

G. Unfinished Business.

1. Tokos gave an update on the Teevin Brothers appeal. The arguments were made in October, and LUBA has indicated that they will have a decision no later than November 12th.

2. Tokos noted that the City has hired a new City Manager, Spencer Nebel, who is coming from Michigan. Tokos said that he had the pleasure of serving on part of the interview process, and he drove the candidates on a tour of the City the following day. He said that Mr. Nebel was the consensus choice. Everybody felt he was the best candidate, and the City is fortunate to get him. Everybody involved felt it was a good vetting process and are excited with the outcome and looking forward to Mr. Nebel's arrival in mid-December.

3. Fisher raised a question on vacation rentals. Tokos said that since he brought it up, he would update the Commission on what is being worked on. The City Council is putting together a business license committee, which may get into VRDs. If it does, they will have to kick it back to the Planning Commission because that is a land use regulation. At that point, we would be able to determine what the issues are and what they want us to look into.

H. Director's Comments. Tokos had no additional comments.

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

Respectfully submitted,

Wanda Haney
Executive Assistant