

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, September 23, 2013

Commissioners Present: Jim Patrick, Jim McIntyre, Glen Small, Rod Croteau, Mark Fisher, and Bill Branigan.

Commissioners Absent: Gary East (*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 7:10 p.m. because the work session ran a little long. On roll call, McIntyre, Small, Croteau, Patrick, Fisher, and Branigan were present; with East absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of August 12, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, 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 7:12 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. Fisher, McIntyre, and Patrick all noted that they often drive by the site, but haven't stopped at the site. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

Legislative Actions:

1. **File No. 2-AX-13/3-Z-13:** Consideration of a request submitted by Spy, LLC to annex approximately 3.063 acres consisting of property currently identified as Tax Lot 1400 of Assessor's Tax Map 11-11-20-BD (4535 S Coast Hwy) and Tax Lot 1300 of Map 11-11-20-BA (4541 S Coast Hwy) and a portion of US 101 right-of-way within the existing UGB into the Newport city limits; (2) amend the City of Newport Zoning Map to establish an I-1/"Light Industrial" zoning designation for the subject property consistent with the existing Newport Comprehensive Plan designation of Industrial (which allows for either I-1, I-2/"Medium Industrial", or I-3/"Heavy Industrial"); and (3) withdraw said territory from the Newport Rural Fire Protection District and the Lincoln County Library District. The Planning Commission will make a recommendation on this matter to the City Council.

Patrick opened the public hearing for File No. 2-AX-13/3-Z-13 at 7:14 p.m. by reading the summary of the file from the agenda; and he called for the staff report. Tokos noted that the staff report in the packet outlines the relevant criteria. He clarified that the property is approximately 3.063 acres instead of 3.03 as shown on the agenda. He noted that the legal description is included. An aerial photo showing the boundary of the annexation area is included. The standards for annexation coming from ORS 222 are essentially that the City receives the required consents. The consents have been filed by the property owner. Tokos noted that a little bit of highway right-of-way is included to get over to the right side of the highway where the state property is so that the annexation is contiguous to the city limits. As noted in the staff report, state law doesn't require the City to acquire consents from ODOT or any entity with road right-of-way because they are not paying taxes on it. Tokos has contacted ODOT, and they indicated that they have no issues. Tokos said that, as Chair Patrick pointed out, the property is within the UGB and has an industrial Comprehensive Plan designation that provides for a range of zoning designations. In this case, I-1 would be applied, which allows a range of uses consistent with what the owner intends to do with this property. Tokos said that the catalyst for the request is the extension of city sewer; and once the annexation is done, the owner intends to connect to city services.

Patrick asked if this included annexing both sides of the highway. Tokos referred to the aerial image in Attachment C and said to imagine a flag pole to get across to connect with the red line that is the city limits. It is shown by the yellow going across the highway. Tokos said this whole pocket is surrounded by the city; but to be contiguous, which is a requirement for annexation, it had to reach across the highway at this location. Patrick mentioned the comment from Police Chief Miranda with the area of the highway

he was suggesting be annexed shown in green. Tokos said that where the Chief is coming from is that he would like all of Highway 101 to be in city limits. The solution to that would be down the road that we pick up the rest of that pocket. We would have to engage those owners as well. If we did that now, it would impact their accesses. Taking in all of those pockets in South Beach would be the solution to Chief Miranda's wish. That is a goal of the City Council. It is their policy call whether to annex them or surround them by the city.

Patrick asked if I-1 is the right designation for this property. Tokos said yes, it fits well with our goals. It is consistent with what this corridor already within the City is designated.

Fisher said that part of the request is to withdraw from some districts and asked why we would do that. Tokos said they would be replaced by city taxes that meet the same purpose. It pulls them out of the rural districts and goes into the city. Tokos said he did contact the County to confirm those were the right districts to pull out of.

Proponents: Greg Paulser, 2560 NW Pacific St, Newport. Paulser said that he is looking forward to getting the property into the City so he can hook up to the sewer.

Opponents or Interested Parties: There were no opponents or interested parties present to testify, so there was no rebuttal.

Patrick closed the hearing at 7:21 p.m. for Commission deliberation. Branigan said he would recommend the annexation go forward. He doesn't see a downside to going forward with what has been proposed. Fisher agreed. Croteau saw no issues. Small agreed and said that his questions about the rural districts had been answered. He said it is pretty straight forward and thought that it is a good thing. McIntyre had no questions and agreed with the rest of the Commissioners. Patrick agreed also and said it is good to see something like this for a change.

MOTION was made by Commissioner Fisher, seconded by Commissioner Small, to forward a recommendation to the City Council to grant the annexation as requested in File No. 2-AX-13/3-Z-13. The motion carried unanimously in a voice vote. Tokos informed Paulser that the City Council hearing will be October 7th.

F. New Business.

1. Initiate Text Amendments to NMC Section 12.15 (System Development Charges) Subsection 12.15.065 (Credits). Tokos noted that as discussed at work session, the Planning Commission could elect to move forward with the SDC code amendments they have been discussing.

MOTION was made by Commissioner Croteau, seconded by Fisher, to initiate and move forward the amendments to the NMC SDC Credits section (12.15.065) with the changes discussed at work session. The motion carried unanimously in a voice vote.

G. Unfinished Business.

1. Tokos said that he is still waiting for a hearing date with the County Board of Commissioners for the UGB expansion. He said it's moving very slowly. He noted that the same goes for the TSP changes adopted quite some time ago. We are still waiting for a Board of Commissioners hearing date.

2. Regarding the Teevin Bros. appeal, the appellants had to file their brief September 10th or 11th. We took a look at it, and they are arguing three things: 1) the City should have required a geologic permit; 2) the analysis that was prepared for Teevin had insufficient analysis of intersections; and 3) the analysis was insufficient to establishing that the roads were sufficient for that traffic. Tokos said it is addressed in the record why a geologic permit wasn't required for this project. He said the other two really fall to Teevin. They were advised what the requirements were, and they modified their analysis to address those things. Tokos thinks they did it adequately. There is information on the intersecting road. The analysis on the big stuff showed that they were capable of handling the traffic. By doing that the traffic engineer determined that translated to the small roads, and they will be just fine. For the structural integrity, Stuntzner Engineering did a whole new supplemental analysis between the original staff-level decision and the Planning Commission hearing that was ordered on appeal where they did a full analysis against current standards. The analysis stated that the road was not new but suitable to handle the traffic at this point. The City Council has elected not to file a brief but will sign on to the brief filed by Teevin's attorney showing we are in support of their defense of the decision. That probably saves the City \$20 thousand on filing briefs. The response briefs will be followed by oral testimony at LUBA. Then LUBA has a period of time to make a decision. LUBA doesn't commonly have a hearing. Presentations by attorneys with questions and answers is usually what happens. If an appeal is filed against LUBA's decision, that goes to the Oregon Court of Appeals. Tokos thinks there are really only two things that could come out of LUBA. He believes most likely they will affirm the City's decision. It's less likely they will remand on one of those items, and Teevin has to supplement their reports. Then the City would have to make a decision on that. Tokos said that what is important to point out here is that the firm the appellants hired didn't provide an alternative. They only pointed out that certain things were not in Teevin's report; which Teevin then turned around and attempted to address. LUBA only has one set of technical analysis. Greenlight Engineering didn't do anything but throw darts at Teevin's analysis. LUBA will affirm the City's decision or remand it for lack of information in Teevin's analysis. It's Tokos' understanding that Teevin isn't

going to move forward until the appeals are done, but they are still committed to the project. He said it's not uncommon for the City not to file a brief. Cities don't typically defend permits; the third party is the one that asked for it.

3. Regarding the OMSI development, Tokos noted that OMSI has hired an architect and engineering team to begin design of their facility. They are still working on the schedule. Through urban renewal, the City invested in the preliminary subdivision plat that will end up before the Planning Commission for approval. The City will be reworking the right-of-way and will partner with OMSI to construct the road. Also on a related note, Tokos said that we found out that money we are looking for from ODOT for 35th and 101 and Ferry Slip projects will be approved. The final list has been selected, and we are on it. That is a \$3.5 million project with \$1.5 million from Urban Renewal and \$2 million from the State. This is a big project finishing off Ferry Slip with bicycle, pedestrian, and full street improvements from 40th to Marine Science Drive. On Ferry Slip, it will be a multi-use path on the west side all the way up. It also includes the new street at 35th connecting across and a signal. The signal at 32nd will be eliminated, and it will be right-in/right-out. There will be sidewalk from the bridge to 35th. This is on the 2015-2018 STIP. OMSI, unless their schedule slips because of fundraising, wants to open early 2016. It could run right into this project; and we could be looking to realize savings by bidding both Abalone and 35th/101 at the same time. On the STIP side, the State says they will put it in whatever year we need it to line up with OMSI. Tokos noted that this was about a 46% match. In the past typically the minimum for grant applications to STIP was 10-27%. Across our entire region, this average was like 35%. What this is telling us is that jurisdictions are clocking in with more cash trying to get high on the list because there is less money available. Tokos said that a conversation staff is having with the Infrastructure Task Force is that we need to make sure we are bringing a reasonable amount of money to the table. It is more competitive now. We can't just come in with in-kind or minimum match.

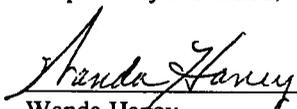
4. Tokos said that right now the City has a lot of projects with Federal funding: Highway 101 crosswalks that we are hoping to get done this winter; Agate Beach wayside under a grant agreement with ODOT, which is in consultant selection; Safe Haven Hill, which just finished Phase 1 analysis, and construction should be in the next year to year and a half. He said that there are a number of things with grant funds moving through the pipeline. We haven't submitted a new one for a major project; but they want options for the next legislative session. The next for us is consideration of a 9th Street couplet redirecting northbound traffic on 101. It would take it on 9th by the hospital and by City Hall and connect at Highway 20 at Benton by the Rec. Center. More likely as it comes around that curve, through where some houses are there, to tie into Coos. There would be a signal, and that would be further away from the signal at the Highway 101 and 20 intersection. For traffic that is continuing north, they would then turn left and then go right to go on up 101. Tokos said that is in the TSP. The State wants projects, so they will get a big project on that list from us. That is the one thing we will put on the table. The timing ties into the formation of a new North Side Urban Renewal District for matches. This would add a couple of blocks of viable commercial. That would allow a narrow-down on 101 and to widen the sidewalks; so city-center becomes more useable. Tokos said the thought is that 101 at 20 has the capacity for handling traffic; it is the run south of it. A connection at Highway 20 and Coos with a signal will manage it.

5. Tokos noted that one small thing we are looking to add in with the crosswalks is placement of a raised median at 101 and 20. Adding to the north would extend the left turn pocket for those trying to turn on Highway 20. Patrick noted that would take away an entry to JC Market. Tokos said that as long as they still have access, they are not entitled to anything beyond that. He noted that one crosswalk by City Hall at Angle will have pedestrian-activated lights. Each one of those is \$30 thousand. They can be retrofitted in the future.

H. Director's Comments. Tokos said that, as mentioned in work session, the City Council will have further discussion on October 7th about the consideration of selling the Visual Arts Center.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:45 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant