

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, April 14, 2014

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

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 7:03 p.m. On roll call, Berman, McIntyre, Croteau, Patrick, Fisher, East, and Branigan were present.

B. **Approval of Minutes.**

1. Approval of the Planning Commission work session and regular session meeting minutes of February 24, 2014, and the work session meeting minutes of March 24, 2014.

MOTION was made by Commissioner Fisher, seconded by Commissioner East, 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. **Action Items.**

1. Initiate a Comprehensive Plan amendment to adopt the Library Goals, Objectives, and Strategies (File No. 2-CP-14).

MOTION was made by Commissioner Fisher, seconded by Commissioner McIntyre, to initiate a Comprehensive Plan amendment to adopt the Library goals and strategies as presented in work session (File No. 2-CP-14). The motion carried unanimously in a voice vote.

2. Consideration of appointing Karen Wilson as an additional member to the Nye Beach Design Review Overlay Ad Hoc Work Group. The consensus was to have as much input as we can from Nye Beach residents and business owners. Patrick noted that Ms. Wilson had attended the first Ad Hoc meeting.

MOTION was made by Commissioner Fisher, seconded by Commissioner Croteau, to appoint Karen Wilson to the Nye Beach Design Review Overlay Ad Hoc Work Group. The motion carried unanimously in a voice vote.

F. **Public Hearings.**

Patrick opened the public hearing portion of the meeting at 7:06 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 Branigan 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.

1. File No. 1-UGB-14 / 1-CP-14. Consideration of a request submitted by Newport Assisted Living, LLC (Andrew Plant, Managing Member) (Bob Parker & Beth Goodman of ECONorthwest, authorized representatives) for a minor amendment to the Newport Urban Growth Boundary to include an approximately 0.61-acre site in order to construct an addition to the Oceanview Senior Living facility. The proposal would also include an amendment to the Newport Comprehensive Plan map designating the subject site High Density Multi-family Residential. The Planning Commission will make a recommendation to the City Council on this matter.

Patrick opened the public hearing for File No. 1-UGB-14 / 1-CP-14 at 7:07 p.m. by reading the summary of the file from the agenda and then called for the staff report. Tokos noted that before the Commission was a request for a minor amendment to the UGB. He noted that the required findings can be found in the "Urbanization" and the "Administration" sections of the Plan. The first set is based on land need, and the second set is on boundary location. He read through these required findings. Also there is a need to demonstrate compliance with applicable Statewide Planning Goals unless an exception is taken to a particular goal. Tokos noted that these findings were addressed by ECO in Attachment C. He noted that Bob Parker from ECONorthwest was attending the meeting and could answer any questions. Tokos said effectively what the Commission will find is an argument that due to

demographics changes there is a need for memory care. Tokos explained that Newport Assisted Living also operates Ocean View Senior Living facility. They are looking to do a 48-bed addition, with the first phase being 24 beds. The 0.61 acres for the expansion will need to get slightly bigger because in addition to bringing in the land they acquired from the City as part of a property line adjustment, a 50-foot right-of-way also needs to be brought in to make it easier to extend the road to provide access to the addition. Tokos said that if the Commission is inclined to make a favorable recommendation to the City Council, that stipulation should be included in a motion. Tokos said that regarding the boundary, the applicant did a good job explaining how with the high cost of these types of facilities it is very efficient to bring it in at this location where there is already staff qualified to provide this type of care and is an aggregation of comparable uses. As he noted, the location is in the Iron Mountain Quarry area. If this is brought into the UGB and later annexed and zoned, at that time the Iron Mountain Impact Area (IMIA) Overlay will be applied. Before development, they would have to record a covenant that they would not object to the continued operation of the quarry. He said this is a matter of Statewide Planning Goal 5 (production of aggregate resources), which the State filters down to local governments to insure that conflicting uses don't put aggregate uses out of business. That is typically what happens, and that is what these rules are intended for. Fisher asked if there is no problem with the quarry and the additional building harming one another. Tokos said there shouldn't be. There can be noise, truck traffic, and a certain amount of dust; but he is not aware of complaints from the existing senior living facility. The quarry is not entitled to do physical harm to their neighboring properties. For instance, they are not entitled to do blasting. Those building the new addition recognize there is a quarry; and they will probably design it for soundproofing and potential vibration. Branigan said there is a lot of timber beyond the addition. Tokos said that is correct; but by expanding the UGB, that doesn't have an impact on that. There are existing easement rights across their property. That is independent of this action. East said that one access road behind the existing assisted living facility is rarely used and is gated off. Branigan said it was used a lot last year. He said it is gated off; but instead of coming out in front, they went down that back road. They hauled in a lot of aggregate and improved the road. McIntyre said he assumed it would be covered in the covenant. Tokos said the covenant has to do with the quarry and that the assisted living facility can't object to that operation. There are existing easement rights to how that land is used independent of our action. McIntyre assumed they both would be covered under agreements; and Tokos confirmed that. Summing up, Tokos said he believes that the analysis is sufficient to support the required findings. Branigan asked if the acreage needs to be increased to include where the road would extend. Tokos said it's just kind of a dirt road right now. Branigan asked if the applicant would pave that. Tokos said the improvements will come after the property is annexed. Tokos said this is just the first step; then annexation and zone change. Before the actual development, they first have to get it into the city limits proper. Branigan asked if they plan on physical construction occurring this year. Tokos said that Parker could address that. Berman asked if this is across the street from the new water tank; and Tokos confirmed where the water tank will go. Tokos noted that there had been the earlier discussion about annexing for the water tank, but the City decided just to do a Conditional Use Permit; the water reservoir UGB amendment was enough. Patrick thought eventually we will want to look at that. He said the timber stuff was the only other thing that he saw; but it is fairly minor. Berman asked if Tokos considered the transportation analysis to be adequate; and Tokos confirmed that he did.

Proponents: Bob Parker with ECONorthwest, the applicant's agent on the application wanted to make a couple of comments. Parker said that the Commission obviously has a sense that these UGB actions are complicated. He said this is a minor amendment where the appeal path is to LUBA and not in the manner of periodic review to LCDC. He said the process for doing this is very prescriptive. First is a demonstrated need; and in this instance it uses the study they did two years ago to demonstrate population growth and how specific housing for memory care is not addressed. Regarding inventory, he noted that there is one other memory care facility in the City; and it is nearly fully occupied at this point. Statistics on memory care suggest a substantial need for these kinds of facilities. He said this may be the first of many you will be seeing in the coming years. The argument they are making is that there is a need for memory care, which have specific siting requirements; in this instance, the efficiencies that are generated from the existing facilities. He said the process for choosing locations is pretty precisely defined in State Statute and Goals. There are steps to do the locational analysis. First, you go to urban reserves. If that's not adequate, you can go to an exception area. Then you can go to marginal lands. Finally, you can go to resource lands. There is one exception specifically for siting requirements; and the findings say there is. This type of development is normally not in the Iron Mountain Overlay, but the subject property is more than 300 feet from the quarry. The application indicates that annexation would be in the IMIA Overlay and as zoning changes, a covenant will be processed basically saying that they agree that those operations are going on. Surrounding the proposed area to the north is ODOT, to the east is the City, and private timber lands about 500 feet away. The actual logging isn't going to affect the applicant. The trucking going on has a right of access through easements. Parker said the only other issue is the Goal 12 issue; the transportation findings. Under State rules, the applicant could choose to defer until the point they change the zoning. They did the analysis basically demonstrating that the additional bedrooms won't have substantial impact on traffic so no additional analysis is necessary. The final comment Parker wanted to make was that they notified adjacent property owners, and they have had some conversation with ODOT's staff early on; and ODOT was satisfied with the IMIA Overlay providing protection with their ongoing activities there.

There were no other proponents or opponents present wishing to testify.

Patrick closed the hearing at 7:25 for Commission deliberation. Berman said that this sounds very straightforward to him. He said he was completely blown away by the complexity when he thought it should be simple. He understands that the regulations are in place to protect the larger picture. He did see that ECO did a nice job of providing the arguments. His only question would be whether there was any chance LUBA will have a problem with it; but he doesn't see any problems. McIntyre agreed. He saw no problem with it. He said he is vaguely familiar with the area; not specifically where the addition is. He thinks it is a good plan.

Croteau said this will fulfill a need. He found it in order and is favorably inclined. Fisher said he had a concern about the IMIA Overlay and later on if something goes wrong. He wouldn't want that. Otherwise, he thought it's a good thing. East concurred with the rest of the Commissioners. He believes we need that type of facility. It will serve the city and its citizens well. He agreed the application should be moved forward. Branigan said that he is very familiar with that piece of land. With the aging population, the City could certainly stand the addition. We need more assisted living and memory care units. He thought everything was addressed. He doesn't see why LUBA would have any objections to it. He concurred we should have a motion to move this on.

MOTION was made by Commissioner Branigan to forward to the City Council a favorable recommendation for a minor amendment to the Urban Growth Boundary (File 1-UGB-14 / 1-CP-14) to include the 0.61-acre site to construct the memory care addition. He amended his motion to include the adjoining 50-feet along the south side of the expansion area for road improvements to provide access. Commissioner McIntyre seconded the motion as amended. The motion carried unanimously in a voice vote.

Parker noted that the question had been raised earlier, and it is the applicant's intention to start as soon as possible. He said there will be a City Council hearing, and the County has to give approval on the action. The annexation and zone change will come in almost immediately after the County takes action. Whether this can happen this year depends on the County's agenda. The County will see some additional findings because the County has additional criteria. Parker also notified Patrick Wingard of DLCD and didn't hear anything back from him.

G. New Business. No new business.

H. Unfinished Business.

1. Reminder of Volunteer Appreciation Banquet, April 22nd at 6:00 p.m. at the Oregon Coast Aquarium. Tokos said that he hoped the Commissioners could attend. Branigan, Croteau, and maybe McIntyre said they should be able to make it.

I. Director's Comments.

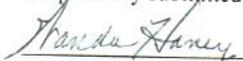
1. Regarding UGB amendments, Tokos wanted to give the Commissioners a heads up that a public hearing with the County Board of Commissioners on the reservoir UGB amendment was held; and they directed their Counsel to prepare for annexation this week. Tokos said it was last May that the Commission raised it up to the City Council; and it was submitted to the County in June. The Lincoln County Planning Commission held a hearing within about thirty days, but they didn't issue a final order until February. It finally got in front of the Board of Commissioners. Tokos talked to Onno Husing, Lincoln County Planning Director, and told him that wouldn't have been good if we had a pending project that was eating us alive; but it happened to not be the case. We are still going through getting funds to offset some expenses in doing detailed analyses we need to do. We are still going through the process of assessing the structural conditions and what remediation options are. So this delay hasn't held us up. It would hang up someone like the assisted living facility, which we hope will move quicker. As soon as the Board of Commissioners acts on this, it will go to DLCD. Their staff said it will be handled by the director, not the full commission; which is a good sign.

Berman asked if Big Creek Road will be a two-lane road. Tokos said he's not exactly sure with respect to that. There was a Memorandum of Understanding agreement that the City Council signed off on outlining steps necessary to transfer the rest of Big Creek Road. We legalized the part of the road within the city limits; and the County will have to legalize the rest of it. The transfer would happen as annexation occurs. The process is mapped out, and we will initiate annexation as soon as the UGB amendment is final. The annexation of just over 300 acres will be before the Planning Commission in a few months. Berman asked if the MOU is about maintaining the road. Tokos said that is part of it. The City is not equipped to maintain gravel. We will just do a maintenance agreement with the County and work with them. The City Council recognizes that there is a cost with jurisdictional control; but it will make things easier at the end of the day. Tokos said that he also emphasized with the County Commissioners, after Norm Ferber testified that this is just a way for the City to side step the conditional use permit process and avoid public comment, that the conditional use process was created to protect timber land and this is a public facility so it isn't necessary. Besides, there will be public outreach during annexation; and a GO bond is likely, which means lots of public outreach. So, the conditional use process is something that should go away. There will be lots of opportunity for public input as we get a better idea of the problems and the full range of solutions. Tokos said there has been an influx of grant funding with the Oregon Department of Water Resources to deal with these types of issues; which is a big plus.

2. Tokos noted that the Nye Beach Design Review Overlay Ad Hoc Work Group held their first meeting, and the next meeting is scheduled for April 23rd. They are starting to identify issues that need to be worked through. That will eventually be brought back to the Planning Commission.

J. Adjournment. Having no further business to discuss, the meeting adjourned at 7:39 p.m.

Respectfully submitted,



Wanda Haney, Executive Assistant