

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**April 9, 2018**

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

**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 work and regular session meeting minutes of March 26, 2018.

Croteau and Hardy noted minor corrections to the minutes.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Branigan to approve the Planning Commission work and regular session meeting minutes of March 26, 2018 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.**

A. **File No. 2-ADJ-17.**

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Final Order for File 2-ADJ-17 with conditions. The motion carried unanimously in a voice vote.

B. **Appoint a Planning Commissioner to Serve on the Park System Master Plan Update.** Commissioner Berman volunteered for the position.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman to appoint Commissioner Berman to serve as the Planning Commission representative on the Park System Master Plan Update Committee. The motion carried unanimously in a voice vote.

C. **Appoint a Planning Commissioner to Serve on the City of Newport Affordable Housing Construction Excise Tax Funds Ad-Hoc Work Group.** Tokos noted that this was a short duration committee that would set up policies to distribute funds and would last somewhere between three to four weeks. Commissioner Branigan volunteered for the position.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Hanselman to appoint Commissioner Branigan to serve as the Planning Commission representative on the City of Newport Affordable Housing Construction Excise Tax Funds Ad-Hoc Work Group. The motion carried unanimously in a voice vote.

6. **Public Notices.** At 7:04 p.m. Chair Patrick opened the public hearing portion of the meeting by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Patrick reported site visits. Hardy and Branigan reported drive bys. Berman reported a site visit and noted he had strong feelings about vacation rentals. Croteau reported a drive by and read a statement that said he was a PC member when they unanimously recommended the 2012 short term rental ordinance. He said since

then he had come to believe that the one provision allowing unrestricted development of vacation rentals (VRDs) in residential zones was a mistake and some restrictions on development of VRDs in residential zones were now necessary. He said he didn't have an issue as a PC member and citizen with the presence and development of VRDs in tourist commercial zones. He said he participated in similar deliberations in the past and believed he could consider the request impartially. Hanselman said he wasn't a part of the legislative process in 2012 but was currently the PC liaison for the VRD Ad-hoc Committee that was currently reviewing the B&B & VRD ordinance for Newport. He didn't see him having an issue with being fair in the particular request. 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. 1-CUP-18.** Patrick opened the Public Hearing for File No. 1-CUP-18. Tokos gave his staff report for File No. 1-CUP-18. He said that the case file, application materials, and letters received to date were present, and copies were given to the PC. He noted the three letters from Carla Perry, Linda Neigebauer, and Charlotte Boxer were a part of the copies provided to the PC. Tokos reviewed the conditions for the conditional use.

Tokos covered the history of the property. He noted the property was in a commercial district and gave an overview of how parking worked in the area for commercial. Tokos reviewed the parking permit program for Nye Beach and how it worked. He noted there had been four other CU permit applications with three being authorized and one being denied.

Tokos said Neigebauer asked how the property was established without parking requirements. He said he didn't have a lot of information on this but he shared that in the Nye Beach Design Review Overlay there were provisions that said residential uses had to provide a minimum of one off-street parking space. It went on to say, however, that the following adjustments to the off-street parking requirement apply: for commercial uses the first 1,000 square feet of gross floor was exempt from the off-street parking calculations. Tokos further explained the current codes for off-street parking in parking districts. He said when looking under the commercial parking districts having some flexibility to do modest expansions, or looking at alterations under the Nye Beach code where it envisioned off-street credits, it appeared that this particular application satisfied the criteria for either of these approaches. He thought it was reasonable that it could accommodate the change. Tokos noted the property was in a commercial tourist zone. He thought the PC had adequate grounds to approve and said the applicant should follow through with obtaining a VRD endorsement and satisfy all other standards that they were not seeking relief from.

Berman asked Tokos to elaborate on the order of precedent with one ordinance saying one off-street parking space was required and the overlay saying essentially they were not. He asked if one would override the other. Tokos said in the traditional context of any kind of use in an underlying zone, they would typically have to provide parking under Chapter 14.19 of the municipal code. He said the overlay changed that and would reset the standards. Tokos said when the VRD modifications were done in 2012, there was a discussion to provide a CU process. Nye Beach was specifically a part of the discussion because when the code was put together, we recognized there were alternative standards in Nye Beach for parking management and was different from other areas. Tokos said the PC could use these grounds to find that the application satisfied the standards.

**PROPOSERS:** Stephen Madkour and Mike McLain addressed the PC. Madkour said he and McLain's families had recently purchased the property. They were planning on using it specifically for family vacation use but wanted to have it available for short term rentals. He said the property was permitted as tourist use in the C-2 zone the property was located in. Madkour argued that the parking for the VRD would mostly be on 3rd Street. He reviewed the criterion for the CU and how their application met each. Madkour noted they had reached out to neighbors and were trying to be as transparent as possible. He said the two families owned this property under a LLC. They requested an approval by the PC.

Branigan asked if the CU was approved would they plan to manage the property on their own or use a management company. Madkour said they were going to try to manage the VRD themselves and see how it went. He said they weren't opposed to property management. Croteau said that the written letters submitted by proponents indicated that the property had been used as a VRD. Madkour said the prior owners were listing the property as a VRD. Madkour said they were going through this CU process because they found out that the previous owner didn't have an endorsement with the City to have a VRD. Croteau said the letters listed Madkour and McLain as the owners on the Airbnb. Madkour explained that there were Airbnb contracts negotiated for stays before they purchased the property that they could not cancel. Berman asked if there were any further rentals booked through the previous owner. Madkour said no. Berman said the existing use was a VRD and had a problem with Madkour's statement that the property was a private residence use and it would have less use because it would be VRD. Berman asked if Madkour's

statements were based on the fact that it had been a VRD or based on his own analysis of his own knowledge of vacation rentals. Madkour couldn't say that the prior use was a VRD and didn't know what the rental history was. He felt the use as a full time residence had more impact on parking than a short term rental and was what the prior PC used to authorize a CU for another property in the area. Berman said he didn't find that to be the case with parking. He said he very rarely found parking spaces in the area. Berman noted Linda Neigebauer's letter that stated the percentage of usage of parking was very high in the area and he felt it would be difficult to approve increasing the usage when it was already so congested. Madkour said there was nothing in the submitted letter by Neigebauer that would suggest that 3rd Street was at capacity for traffic. He said if they were talking about the limited sections of 3rd Street in front of his house, there were other uses in the area that were affecting their property's parking. Madkour disagreed with Neigebauer's letter and thought there was adequate parking on 3rd Street to support this use.

Hanselman said he took exception with Madkour's description of parking on 3rd Street. He said the City had done a parking study in the area and the professionals determined that the 3rd Street was at full capacity currently. He said the fact that other businesses were operating in the area and were impacting Madkour's property didn't negate the argument that it gave him the right to impact his neighbors. He said the fact that there was a three hour parking limit on the street meant his tenants would have to move their vehicles in the middle of the night if parking was enforced. He thought even though the VRD was in a commercial area, the PC had to do their best to not impact area.

Patrick asked Tokos if there was the possibility to be able to issue parking permits for the VRD. Tokos said under the commercial parking district permanent residents would get parking stickers and guests would get door hangers. He said he included copies of the parking stickers and a list of how many were issued in the meeting packet. Croteau asked if there would be three parking stickers for this property. Tokos said the owners could pull stickers for their personal vehicles. He said the list didn't show anyone pulling more than four stickers for a property. Berman asked how guests were defined and if the passes could be handed around to different renters. Tokos said the owner would pick up a stack of door hangers at the City and make them available for renters. Hardy said this address showed two parking permits for the property already. Tokos said that was for the previous owners who no longer owned the property. He said they might have permits for another location. Hardy asked if the permits were still active. Tokos said they might be active because they were in the same area. Croteau asked how long the previous owner operated the VRD. Tokos said he didn't know because the unit was unlicensed. Berman asked how many citations had been issued for parking in excess of three hours in the last year. Tokos said the parking study included information on observed overuse in the Nye Beach/Bayfront areas and the overstays were in the four to seven percent stay range.

**OPPONENTS:** Linda Neigebauer addressed the PC and said she owned property in the Nye Beach area that included four full time rentals and a retail space that had off-street parking. She said the letter she gave the PC was information she thought they would be interested in and didn't feel one way or the other about this VRD. She asked the PC to give careful consideration on parking requirements for VRDs. She said the PC's decision affected not only this property but others. She noted that owners could obtain as many parking permit hangers they wanted without a cost. She said the parking study that was being done might be adding fees to the permits.

**REBUTTAL:** Madkour addressed the PC and said any application should be judged on the regulations applicable at the time of submittal and felt their application met the current regulations. He said the overlay said this property was eligible for a parking credit and they didn't have to comply with parking requirements. He said it was a matter of fundamental fairness and asked that the current codes be applied. McLain stated that when they purchased the property and found out it wasn't a licensed VRD, they started the process to get it into compliance. He said the property was a benefit for Newport. McLain said their intent was to have a property for their families to enjoy and also have it as a VRD part time.

Patrick asked what the applicants' thoughts were on limiting the current number of door hangers being available to them to just three. Madkour asked if the three would only be applicable to the property owners and guests. Patrick said the owners could have their permanent stickers and the guests would be limited to three door hangers. Madkour said they would be fine with this.

Hearing closed at 7:52pm.

Hardy said given the poor planning for the Nye Beach neighborhood she didn't think it was an extraordinary request. She said she didn't have a problem with it. Berman said his issue was congestion and had a problem with parking in the area. He hoped that something would be done in the future ordinance about this. Berman said the PC's job was to approved things based on historical and current requirements. Croteau said there would be some impact on the

neighborhood and saw no basis to deny the request. He said the PC needed to be fair with the process. Croteau was uncomfortable with extending and solidifying precedent and thought it was hard to make these judgments. He didn't see how it could be denied. Hanselman wasn't happy with the ordinance as it was written and thought it needed to be revisited. He felt an approval was appropriate because the applicants followed the rules. Hanselman noted that the VRD's tenants would have as much parking problems as other people parking in the area, but would vote for approval. Branigan said all the criterion had been met and it was the PC's responsibility to administer the ordinance as written. He felt this had been done and said he had no issues. Patrick said the applicants met the conditions but said a VRD didn't have the same effect as a full time residence. He noted that parking was an ongoing problem in Newport. He asked the PC if they wanted to discuss limiting the number of parking permits for the applicant. No comments were heard. Hardy said she wanted it noted that she thought VRDs did not decrease the available long term rentals available for people who weren't in Newport.

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Hardy to approve the conditional use permit for File No. 1-CUP-18 with conditions. The motion carried in a voice vote. Croteau abstained.

7. **New Business.**

A. **Volunteer Appreciation Dinner RSVP: April 17, 2018 at 6pm at the Best Western Agate Beach Inn.** Tokos wanted to make the PC aware of the volunteer appreciation dinner. Patrick said he and his wife would attend. Branigan said he and his wife would attend. Croteau had a prior commitment. Hardy couldn't make it. Hanselman had already spoken to City staff about attending.

8. **Unfinished Business.** No Unfinished Business.

9. **Director Comments.** Tokos noted that Central Lincoln PUD appealed the PC's decision. He said he would be scheduling it at a meeting with the City Council as a matter of procedure. He said the way the appeal process worked was the CC had to take it on the record unless there was grounds to do a de novo hearing with some specific standards being met. He said the CC could also just accept the PC's decision, stamp it immediately, and let them appeal. Tokos said CLPUD did ask for a de novo hearing and the CC would have to deal with that procedural piece first. Berman asked Tokos to let the PC know when it would be going in front of the CC. Croteau asked what the difference was between an on the record review and a de novo hearing. Tokos said an on the record review meant the CC could only look at what was presented to the PC, and a de novo hearing was a full evidentiary hearing where the appellant could bring in new evidence that the PC never had a chance to look at. He said the City drafted their procedures very tight because the expectation was that unless there was a compelling reason for it, they wouldn't get to do a de novo hearing. He noted that this was commonly done in other jurisdictions.

10. **Adjournment.** Having no further business, the meeting adjourned at 8:04 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant