

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, May 8, 2017

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

Commissioners Absent: Jim Hanselman and Mike Franklin (*all 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, Patrick, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of April 24, 2017.

MOTION was made by Commissioner Berman, seconded by Chair Patrick to approve the Planning Commission meeting minutes as presented. The motion carried unanimously in a voice vote.

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

4. **Action Items.** No action items.

5. **Public Notices.** At 7:03 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. Hardy and Patrick reported drive-bys. Croteau reported site visits for both. 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. 2-CUP-17.** Patrick called for the staff report for File No. 2-CUP-17. Tokos presented the staff report and noted that an opponent letter was received just prior to the hearing and copies were distributed to the PC at the meeting. Tokos reviewed the letter with the PC.

Tokos covered the findings and staff analysis. The Building Official brought up an issue with the application. It is common to use butane and flammable gas for the extraction process. Building codes say this process would have to be vented at a fixed distance to the property. The process isn't approved at this location. Tokos stated that it is important for the PC to state in the conditions of approval that this type of extraction is not allowed. Tokos said the application meets the criteria but encourages the PC to consider the opponent's and applicant's testimony when considering approval. Tokos reported that the Lincoln County School District determined that marijuana processing facilities do not need to be a fixed distance from schools. The City Council determined this as well.

Croteau asked if marijuana growing is permitted at this site and is ongoing. Yes. Croteau asked if there was any increase in crime at the location. Nothing has been brought to the City's attention. Patrick asked if they meet the distance requirements. Tokos didn't determine this before the meeting.

PROPOONENTS: Kyle Lowe and William Wren, 861 NW Beach Drive, Newport, OR 97365. Lowe reported that they are not looking at using Butane for processing. They are looking into doing a kief dry sift hash process as well as a cold water hash process. The Building Official, Joseph Lease, said they could also do an ethyl alcohol extraction (under 30 gallons) as there wouldn't be any flammable discharge like gas.

Lowe explained the business has been at the current location since November 2016. In the beginning, there was a lot of transient traffic near the area. They put in cameras and have spoken to the City to make sure a police route goes by

the business to make sure no illegal activity is happening. Lowe explained that everything they process and sell goes into a tracking system and is accounted for through a State recording system.

Branigan asked the proponents to walk the PC through the extraction process. Lowe explained the process. Branigan asked what the Butane is used for. It is the most efficient method for extraction but there are more safety requirements as it is more hazardous. Branigan asked if alcohol does the same thing. It isn't as efficient but it doesn't have as much safety concerns and takes longer to process.

Berman asked for Lowe to explain what is extracted in the process. Lowe explained they are extracting the trichomes which contain the THC resin. It is soluble in alcohol. A rotary evaporator is used and there is no off gas from the ethyl alcohol.

Berman asked what kind of precautions they are taking for security when the product leaves the building. Lowe explained they have to batch and tag the product with an RFD tag, then go into the metric system and do a manifest to say how much is leaving the facility and when. The routes taken and when it will arrive at the next facility is recorded. Berman asked if a security company is hired to move the product. It is not currently required but it has to be transported in a vehicle with an alarm in it.

Branigan asked how often the State inspects the facility. Twice a year. If the Condition Use Permit is approved, they will re-inspect it again to get approval. All employees are background checked, have a marijuana handler permit, and are entered in the metric tracking system. Branigan asked if they have had any problems. No, other than transients on porch leaving trash. Once they talked to the City about this, there hasn't been any issues at all.

Berman asked if the proponents knew of any armed robberies of marijuana facilities such as theirs. Lowe said he heard of some in the more rural farm areas. Wren stated that there haven't been any licensed facilities that have had any problems in the state.

Patrick asked about alcohol off gases being a closed loop. The consultant said with the use of a rotary evaporator there would be no off gassing of alcohol. They currently have two 12" carbon air filter systems for the air that leaves the building. Croteau asked if ethanol is the only solvent they are using. They haven't done any yet and are looking into what could be done in the building.

Croteau asked if there are any other issues with the use of ethyl alcohol. Lowe said no and reviewed the Building Official's notes that stated up to they could use up to 30 gallons. They wouldn't use more than 5 gallons at a time. Hardy asked if there is any time the building isn't occupied. Yes, but there is a 24-hour monitoring with the camera system.

OPPONENTS: Jeremy Rasmussen, 604 N Hwy 101, Depot Bay, OR 97341. Rasmussen read letter submitted by Pacific North Enterprises, LLC, in opposition to the application.

Berman noted that there were no opponents to the applicant's first Conditional Use application for a marijuana grow and asked why Pacific North Enterprises didn't oppose this. Rasmussen wasn't aware or a party to this.

Hardy asked how a closed, controlled marijuana processing facility would have an impact on the outside of the building. Rasmussen couldn't answer the question but said he did talk to Platt Electric who is owned by Rexal Inc. who has a strong stance against marijuana facilities. Platt said if they have any smell outside the building they will leave. Berman asked if they felt the same when the PC was approving the last Conditional Use Permit for the grow facility. Rasmussen wasn't aware of this and wasn't there at that time.

Hardy asked if there were any reports of increased criminal activity. There were none known. Rasmussen said he was not a part of previous approval but is happy to get more information for the PC. Branigan asked if he was aware of any businesses leaving because of the grow facility. No. Berman asked if Platt received previous letter. These letters were sent to property owners only.

REBUTTAL: Lowe stated that based on their current grow facility and lack of issues, having a processing facility wouldn't be an issue.

Deliberations started at 7:33 p.m.

Branigan thanked everyone for testifying. He recommended granting a conditional use permit with the provision that the Building Official concurs with the handling of any volatile gases that come out. Since there have not been any problems or complaints since the grow facility was approved in November, he supports it. Croteau stated that he sees no substantial difference between processing and a growing facility, and has no issues. Berman said the only issue he sees is that Platt would move out. The new use wouldn't add any adverse impact greater than the existing use so he supports it. Hardy stated that she thought the current difference of opinion among local governments versus the federal government is probably the strong basis of the Platt objection. No causative problems have been heard. She feels it is more like a political position and is the heart of the problem. As long as the rules are followed, she doesn't think it will adversely affect that business if it hasn't already. Patrick said they have met the requirements. He warned the applicants that if they have any violations, they can have their permit revoked.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to approve File No. 2-CUP-17 as presented. The motion carried unanimously in a voice vote.

B. File No. 3-CUP-17. Patrick called for the staff report for File No. 3-CUP-17. Tokos presented the staff report and passed out the vinyl siding examples, provided by the applicant, to the PC. He drew attention to the window that will be moved. The national registered documents show no indication historically relevant about the placement of the windows. He noted the conditions of approval on the report.

Hardy asked what "architectural folly" is. Tokos explained it is anything out of place from what you would expect from Newport's community, and a unique form of architecture.

PROPOONENTS: Darren Brault, 12948 SE Winston Rd, Damascus, OR. Dennis Lowery, 1417 Fircrest Way, Waldport, OR. Brault discussed the state of the current windows and siding on the building. They chose new vinyl siding for its durability and how it is guaranteed for life. Hardy asked if he has experience with vinyl siding. Yes. Berman asked if all the windows will be replaced. Yes. Berman asked if the new window above the one being moved will reflect the character of the others. Yes. Branigan asked if the windows will be vinyl. Yes, they are double hung and top of the line. Lowery said that only a little bit of the vinyl will show.

Branigan asked if felt will be used for the siding. No, there will be a high grade membrane that gives a space between the siding and the wall so water can drain. Branigan asked if they considered hardy plank. Yes, but the cost would have been extreme and why they chose vinyl. Hardy said that vinyl siding goes out of style and asked if there are any provisions to have spare vinyl siding if repairs were needed to match what is being installed. Brault to talk to contractor to get extras. Hardy suggested talking to the manufacturer.

Hardy asked if any of the windows being replaced are required to be legal fire egress. Lowery thinks they all meet egress. If they don't, they will change them. Tokos said if it is appropriate we can work with the applicant to meet egress and keep historical character.

Croteau asked the applicant if the building wasn't historical would they be doing the same thing. Yes. It wasn't until they pulled a permit that they realized the historical requirements.

OPPONENTS: There were no opponents present wishing to testify; so rebuttal was waived.

Deliberations started at 7:53 p.m.

Hardy stated that on a practical, mechanical standpoint, she thinks the vinyl siding is ill advised. Berman has no problems with the siding. He assumed the applicant will closely match the look and color of what is on the building now. He doesn't see a problem with approval. Croteau had no issues. Branigan had no issues. Patrick thought the criteria had been met. Berman asked Tokos if the interior applies with this application. No, it does not.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to approve File No. 3-CUP-17 with conditions. The motion carried unanimously in a voice vote.

6. New Business. No new business.

7. **Unfinished Business.** No unfinished business.

8. **Director Comments.**

A. **Open House for Revisions to the Flood Insurance Maps:** Tokos distributed a Notice of Open House for the Flood Insurance Maps happening on May 18th. He encouraged one to two PC members to attend. Over 600 direct mail notices were sent out. The County will be doing a similar mailing. There will be a presentation at the open house and people will be there to print out maps on demand. Tokos reminded the PC that they have looked at the preliminary maps and made comments. They re-released the preliminary set and is what is being looked at. There is not a significant difference from what it is now. Berman asked if all of the PC attend the open house, is there a problem. No because it is a community outreach event. Croteau asked if there are more properties that are potentially effected other than the 600 mailed to. Tokos says there are more that are being reduced than added.

B. **Newport Vision 2040 Update:** The Drafting Committee is putting together the draft vision statements and focus areas will be presented by the end of May. They are still doing meetings in a box.

C. **35th & Hwy 101 Project:** Draft design documents will be ready for the public open house on June 7th.

D. **Parking Study:** The study is back in the hands of the consultant. A revised draft will be given to the Advisory Committee in the first two weeks of June.

E. **Housing Initiatives:** The City Council will have a work session on May 15th to review the housing initiatives.

F. **Development Fund:** The hospital's foundation work is in plan review at this time. Their Traffic Impact Analysis will be done soon. The Hatfield Marine Science Center classroom/research facility project should be submitted soon.

Patrick asked if the Agate Beach Wayside restroom project will start soon. Yes. The staircase is finished. There are some issues with the asphalt work. The contractor will come in the summer to put a seal on it because of some flaws. It has to be signed off by ODOT because it is the Federal piece of the project.

Berman asked if there is a schedule for the two pump stations. Tokos had no information on this.

Branigan asked if Acting Police Chief Malloy should talk to the PC on the City's plans for the eclipse. Tokos said if it is relevant to the PC's work he can bring him in. There won't be any code changes because of the eclipse. Branigan felt he would like a little knowledge even though it doesn't specifically impact what the PC is doing. Croteau feels the hype is overblown.

Berman asked if the hospital was paying CETs. No, because it is one of the listed State Statute exemptions. Berman asked if the Hatfield project will pay CETs. No because it is a public improvement, although they will be subject to SDCs.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:40 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant