

Minutes
City of Newport Planning Commission Regular Session
Monday, March 26, 2012

Commissioners Present: Jim Patrick, Jim McIntyre, Rod Croteau, Gary East, and Melanie Sarazin.

Commissioners Absent: Mark Fisher and Glen Small (*both excused*).

City Staff Present: Community Development Director (CDD) 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 7:01 p.m. On roll call, McIntyre, Croteau, Patrick, East, and Sarazin were present. Small and Fisher were absent, but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of February 27, 2012, and the joint City Council/Planning Commission work session meeting minutes of March 12, 2012.

MOTION was made by Commissioner Croteau, 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.

Legislative Actions.

1. **Continued Hearing on File No. 1-Z-12.** A Newport Municipal Code text amendment to Chapter 10.10 (Signs) requested by Thomas Fox Properties, LLC (Michael Robinson & Seth King (Perkins Coie, LLP)), agents, to allow electronic message signs in the C-3 zoning districts. The Planning Commission will entertain language to allow the signs in all commercial and industrial zones with limitations. A hearing was opened on this matter on February 27, 2012, and was continued at the applicant's request. The Commission will make a recommendation on this matter to the City Council.

Patrick continued the public hearing for File No. 1-Z-12 by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, bias, ex parte contact, or site visits; and nothing was declared. He called for objections to any of the Planning Commissioners or the Commission as a whole hearing these matters; and no objections were raised. Patrick called for the staff report. Tokos noted that the Commissioners had received a letter from the applicant's attorney that they had reviewed the staff report and are in agreement with it and would ask the Planning Commission to favorably recommend the amendment to the City Council. Tokos noted that the developer of the property for Walgreens, Bret Fox, is in Utah. They thought this was straight-forward enough that they didn't have to make a trip here for this hearing. If the Commission has questions to ask of them before recommending this to the City Council, they will be happy to come here for a continued hearing. Tokos said the staff report in the packet outlines the scenario. This is an applicant-initiated amendment to the sign code. They are requesting electronic signs and provided a proposal, which is included in the packet. This matter has been discussed by the Commission in work session a couple of times. Tokos included a markup showing specific changes to the code and the rationale for those changes. He said hopefully the changes address what was raised at work session.

Tokos noted that the changes begin on page 4 of the code with the definition of reader board. This was proposed by the applicant and it clarifies that reader boards do not include electronic message signs. Reader boards are discussed separately in the sign code. The next change is under the sign definitions and is a definition for electronic message signs. This is only the definition portion of what the applicant had. They had a number of standards, which Tokos put elsewhere in the code because we don't want standards under the definitions. Tokos made one minor change to free-standing signs. This is not something the applicant proposed but was proposed in work session. It makes it clear that a free-standing sign is permanent. McIntyre wondered if the sign definitions couldn't include pylon signs. He said what sets pylon signs apart is that the supports are not as wide as the sign itself. Tokos said it could potentially be added, but he's not sure pole sign is even in this code. Most references are to free-standing signs. Patrick said it is taken as a free-standing sign. McIntyre said that a pole sign is free-standing, but many companies use pylon signs. Tokos said he thinks of them just as monument signs. McIntyre said that for monument signs though, the support is as wide as the sign. Tokos said that there are a number of elements in the code that really need cleanup, but given this was an applicant proposal he tailored it as was talked about. Going back to the electronic message sign definition

where it talks about the pattern of lights, Patrick thought it might be better to call that a pixel. He said dot matrix means something different. A real electronic sign, like a TV set, isn't a dot matrix. Tokos confirmed the change to be "in a pixelized format". Tokos noted that the next series of changes were on page 8 and is not something the applicant requested but is important cleanup. He said that for all land use permits, the City Council adopted a resolution that targets 50% of cost and a method for annual cost adjustment. We haven't been able to fit that to sign permits because that was fixed in the Municipal Code. All fees should be set by resolution because they are easier to adjust that way. That is why these changes on page 8 are being proposed. The next change is under prohibited signs on page 12. Tokos said this is an addition the applicant proposed and is appropriate. He said that given how broad the prohibition language is, having some language saying that electronic message signs are not prohibited where provided elsewhere in the chapter avoids confusion. Further down on page 12 under 'Number and Area of Signs', is a targeted change Tokos made because he understood the Commission's preference was to allow electronic message signs as a carrot in order to reduce the number of free-standing signs on a property. The next change is on page 17 under R-4 residential district because we only talked about these types of signs being permissible in commercial and industrial zones. This clarifies that electronic message signs are not allowed in the R-4 district. Page 18 is where the standards are located. The change under item 'B' basically says that on properties that could normally have more than one free-standing sign, if they use an electronic message sign, they can only have one free-standing sign. Item 'E' talks about the height limitation. Tokos said the rest of the standards are more or less what the applicant proposed: 35% of allowable sign area; 5 minutes (he did get in the exception for time and temperature that was talked about); that the actual change is made within 2 seconds; that it doesn't flash, move, or have video; and the last two were mechanical things that made sense. Tokos said that was the end of the changes, but he had included the rest of the sign code in here. He didn't propose any changes to the Agate Beach sign code. He said it seems that sign code was put together in part to implement the Agate Beach Neighborhood Plan. McIntyre wondered if there was a plan to come back into the sign codes to update and clean them up. Tokos said he had nothing on the work program right now, but at some point it makes sense because it needs some work. Sarazin asked if the reason we didn't clean up the entire code at this point is because the applicants need to rush this along. Tokos said they do want to move this along. He said in part it is when we have had an applicant-initiated text amendment, we have set aside a comprehensive re-write and looked at whether what they are requesting makes sense, or will with some changes, so it applies not just specifically to the applicant's property. Patrick said he has no problem doing it as requested but making a note that we need to make another pass at some time. Tokos said an applicant doesn't need the fear of getting shot down because of something they didn't propose. The consensus was that working on the sign code needs to be put on the work list sometime in the future.

With no one present to testify, the hearing closed at 7:20 p.m. for Commission deliberation. McIntyre said he was in favor of the amendments. However, he made one suggestion of changing the phrase "is permitted" to "shall be permitted" under Section 10.10.060 (Number and Area of Signs). Patrick thought this strictly applies to free-standing; and Tokos said they could do an electronic message sign as a wall sign, but they are still limited to one free-standing sign.

MOTION was made by Commissioner East, seconded by Commissioner Croteau, to pass on to the City Council a recommendation for approval of the sign ordinance amendments in File No. 1-Z-12 and to come back at a later date to do some additional cleanup on the ordinance. Sarazin amended the motion to include the additional change to the electronic message sign definition with the reference to pixelated; and Commissioner Croteau seconded the amended motion. The motion carried unanimously in a voice vote.

F. Unfinished Business. Tokos wanted to give the Commissioners an update on the vacation rental code. He noted that the City Council had held a public hearing. Two Council members were not there, and the other Council members didn't want to make a decision that night. They wanted those two to be there to listen to the testimony. Tokos said they probably will reach a decision at next Monday's meeting. The Council asked for three targeted changes. One was under waste management. It read that weekly disposal shall be provided while available for rental; and they are asking to change that to while the dwelling is occupied for B&B or vacation rental use. Another change had to do with bedrooms under the building official safety inspections, where it shall have windows that are 5.7 square feet and not more than 44 inches above the floor or exterior door language. The last was under the building official inspections and when correction actions have to be made. If there is an active rental agreement, they have 30 days or an alternative time line acceptable to the building official. The Council had about six to eight people testify, and several of those had testified to the Planning Commission. Some were unhappy with certain elements. The R-1 and R-2 zones, the permitting process, and enforcement came up. They want to see an outline on how we will implement it, and Tokos will provide a memo about that. He said that we have a pretty good list of stakeholders, so he thinks we are in good shape to do the outreach we need to in order to give them a heads up in advance so they can take advantage of the 120 days and have good materials so they understand when they pull their endorsements. Croteau wondered if, with the exception of those changes, the Council seemed favorably inclined. Tokos thought so because they recognize the need for the change in order to make the process better. He added that he can't say they will push on the R-1 and R-2. They talked about it a little bit. He thinks they will let it play out because they understand the challenge of allowing them in one residential zone but not others. McIntyre asked, assuming the Council approves this and we start notification, if real estate brokers will be notified. Tokos said we can surely do that because it makes a lot of sense. They are in a position where they are approached by a lot of folks. He noted that real estate broker Bonnie Saxton, who had testified to the Planning Commission, had testified favorably to the City Council as well.

G. New Business. Patrick raised a point that on the Tree City ordinance, we probably need an emergency clause so people don't have to get permits when something happens with the weather like it just did. A lot of the downed trees were over 8 inches. Tokos said that there was some language that allowed the City Manager to authorize removal in an emergency, but he will take a look at it. Sarazin said that she likes an emergency clause, because the last thing people will think about is getting a permit from the City to remove downed trees.

H. Director's Comments. Tokos noted that the Coho/Brant Refinement Plan is firing up. A consultant is on board. It is Cameron McCarthy and KPFF. He said that they did the landscaping and graphics as part of the 2008 Urban Renewal expansion. April 25th and May 16th will be the public outreach from 6:00-8:00 in the evening. The first meeting on this will be April 11th with a small group of key community members serving as a technical advisory group to help to craft the product before taking it to the public to be vetted. Tokos wondered if there was interest in having a Planning Commission member on that technical group. Jim McIntyre and Gary East said that they would be interested. Tokos will get them the details. He said this will eventually lead to targeted codes down the road.

Tokos noted that the EOA work group on which Commissioner Small is the liaison has meetings scheduled for April 12th and 23rd.

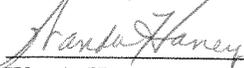
Tokos said that he doesn't have a meeting date for the South Beach Transportation Plan update, but it is moving along at a snail's pace. He will let the Commissioners know as soon as it gets to a meeting.

Tokos said as far as work sessions coming up, he will start getting together materials on erosion control. Public Works is anxious to get to work on the annexation of the water reservoirs, so he will be bringing that into work session before long. There will also be a training session from new materials DLCD is wrapping up putting on line; which we will probably hold at the end of April. The Port of Newport submitted an NZO text and map amendment related to Yaquina Bay Fruit Processors (YBFP). Because it's pretty straight-forward, Tokos probably won't bring that to work session; just to public hearing. The back story here is that YBFP is currently on water-dependent property. They obtained a conditional use permit in the past because they used salt water intake in their brining process and had discharge as well; so there was a connection to the water. Their operation doesn't have that any more, and they had to relocate for NOAA. There was an agreement drawn up with the Port giving them a period of time to find a suitable location for YBFP. The Port hasn't found anything, and they prefer not to lose those folks. YBFP is prepared to operate with retail; similar to the Rogue Brewery who has a brew pub and manufacturing. Rogue was permitted conditionally in water-related as a brew pub, which is permitted in C-2. If the permit was challenged, it would be hard to uphold. Manufacturing was never permitted in C-2. The text amendment would allow manufacturing in conjunction with a use permitted outright in C-2 in water-related. The map change will make those properties more inland water-related; and those right on the water would be water-dependent. There will be more going to water-dependent than going to water-related. Tokos has talked to the State, and they are satisfied. Tokos added that the amendments will cover the Rogue in the future.

Patrick noted that last week he and Tokos attended a DLCD meeting here. He said it was mostly about off-shore planning, but he brought up how visually to get things onshore. Tokos said that the next day, they talked about the legislative agenda for the full session coming up; and he can bring the new legislative agenda for our next meeting. Tokos said that the one comment he raised had nothing to do with the ocean planning discussion. He said that LCDC is well-positioned in trying to get annexation laws in line with planning laws. He said they actually work against each other. He told them that would be worthwhile. It should be easier to annex properties. The laws have made it extremely difficult to do planned growth. He said they were given a tour of the City. They had a chance to look at the Port's international terminal. Tokos said they were shown the infrastructure improvements on Marine Science Drive, basically thanking them for the monies we were able to get out of them and also showing them that jurisdictions actually do these things. Tokos said he also showed them the Wilder development.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 7:43 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant