

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, July 9, 2012

Commissioners Present: Jim Patrick, Jim McIntyre, Glen Small, Rod Croteau, Mark Fisher, and Gary East.

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, McIntyre, Small, Croteau, Patrick, Fisher, and East were present.

B. Approval of Minutes.

1. Approval of the Planning Commission regular session meeting minutes of June 11, 2012, and the joint Newport/Lincoln County PC work session minutes of June 25, 2012.

MOTION was made by Commissioner McIntyre, 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. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:04 p.m. 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. Patrick declared ex parte contact when Don Huster had started to talk to him about the assisted living facility before he stopped him. Fisher declared a site visit 5-6 years ago, and again today he went back out and talked to a neighbor. Patrick called for objections to any of the Planning Commissioners or the Commission as a whole hearing these matters; and no objections were raised.

Quasi-Judicial Actions:

1. **File No. 2-PD-12.** A request submitted by Donald Huster (Newport Village, LLC, property owner) for approval of an amendment to the planned development preliminary development plan and the final development plan approved in 2006 for Blue Water Ridge. Under File No. 2-PD-06/2-SUB-06, Blue Water Ridge was approved for a development of 101 single-family residential units. These amendments propose to divide the property into three parcels for 7 phases of development. Development of Phase 1 on Parcel 1 would consist of a 120-unit assisted-living facility with 88 assisted-living units and a separate 32-bed memory care wing. Subsequent phases will offer various types of independent living such as apartments, condominiums, duplexes, and single-family homes, which may total up to an additional 170 units. The subject property consists of approximately 37.35 acres and is currently identified as Tax Lot 1403 of Assessor's Map 10-11-20.

Patrick opened the hearing for File No. 2-PD-12 at 7:06 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos noted that the Commissioners had the staff report outlining the complete set of criteria for this requested amendment to an existing planned development originally approved in 2006. He noted a correction to the notice in that this is an 8-phase development, not 7. Tokos had displayed on a board, the plans showing the phasing pattern. The request is also for the final development plan for the first phase containing the assisted-living facility. Those plans were included in the packet as well. Tokos noted that he had the complete record with him. Tokos noted that, as he had mentioned, the development was originally approved in 2006. In 2009, an amendment was made to what constitutes vesting in the proposal. It was determined that an investment of \$2 million would be vested. The applicant has made more than that getting infrastructure in place. Originally the concept was to develop with 101 single-family residences. Tokos said that this amendment is a wholesale redo of the planned development. The larger concept is for 8 phases. Instead of a conventional single-family development, Phase 1 would be a 120-unit assisted living facility. Phases 2-8 could be an additional 170 units ranging from single-family to townhouses, or whatever the market would support, for independent living with the concept for residents over 55. The applicant is proposing not to go with the street concept of the original development. The streets will be under a condominium-style arrangement across the entire development. That is the only way to do private roads under the City's code. They will be under one ownership. Tokos noted that the southern-most property, Phases 7 and 8, are in an R-4 zone. He said there has been a fair amount of grading work done. The circulation pattern changed somewhat from the original, but it's not a wholesale deviation. One stream crossing was

eliminated. Tokos didn't go through all the individual findings because they are all discussed in some detail in the staff analysis referring to the criteria under NMC Section 14.35.070 for the preliminary plan and NMC Section 14.35.100 in the case of the final development plan. Tokos spent a little bit of time talking about the recommended conditions of approval. He noted that listed on page 18 of the staff report, are what to consider if the Commission should decide to approve the amendments. Tokos noted that the preliminary plan approval sets out requirements for the entire development. The final development plan is just for Phase 1. In the future, the Commission will review final development plans for the other phases. Phase 1 is what is proposed for imminent development, which is the assisted living concept.

Condition 1 relates to that assisted living facility. Standards require that the amount of off-street parking be consistent with the type of development. There is a parking ratio. There are two similar uses this facility could fall under: convalescent and nursing home or elderly housing with over 16 units. In both of those cases, a facility of this size would require twice as many parking spaces as are proposed in this plan. The code does allow for situations like this where the applicant can do a parking demand analysis where they can go out and say this is a development being done elsewhere in the state and this is the parking they provided and it seems to be working well. Through that they can demonstrate that the parking proposed is adequate. Tokos said he fully suspects that what they are proposing is adequate. Through the parking code, review of the parking demand analysis is typically done at staff level. The Commission can just include that as a condition to confirm what is being provided is going to be adequate.

Condition 2 gets at terms of use, ownership, and maintenance of open space. It talks about how that gets done; probably by easement. There is an allowance by tract. It is unlikely that the applicant will be doing a subdivision where streets need to meet public street standards. They could get to that. Tokos noted that the applicant will talk about how they would like the open spaces to work. There needs to be some mechanism for who is responsible for maintenance and gets at how they are designing it.

Condition 3 gets at that as well. It does note trail improvements within open space areas. Those improvements would all begin with Phase 2. Tokos said that a fair way to view this is that with Phase 1 the applicant means to get some productive use of this property and get some infrastructure in; which will serve as a catalyst for development of the rest of the property. There will be some infrastructure for the trail system, which will follow as the other phases are developed and there is demand for those types of facilities.

Condition 4 gets at under what circumstances a geologic hazards permit is required. There was a geologic report with the prior development concept of 101 homes. That geologic report did identify areas of local landslides in what will be Phases 6 and 8. Our code requires that if there is documented slide activity, then a geologic report will be required. Therefore, when the applicant comes in for Phases 6 and 8, they need to do a geologic hazards report to address conditions noted in the original report.

Condition 5 talks about building setbacks, and that they may be eliminated in Phases 2-8; not in Phase 1. Phase 1 includes an exception to building height, but the applicant's justification was the significant setbacks that this facility will have from property boundaries. The setbacks proposed by the applicant would apply in Phase 1. In Phases 2-8, there could be '0' lot lines if the terrain dictates it is needed. But the proposal is that building separation will not be less than 8 feet, which would apply through all phases. McIntyre asked if there didn't need to be an access easement for the property owner on the '0' lot line for access to the side of their house for maintenance. Tokos said that may have to be worked out in the condominium rules. The proposal is talking about being under one ownership; not the conventional lot lines.

Condition 6 gets at minimum lot sizes being reduced and provides an allowance for that. But in no event, shall the maximum density exceed 170 units on top of the 120-unit assisted living facility. This is applicable only if the developer decides that he may want to go back to another subdivision approach; not if it stays a condominium approach under one common owner.

Condition 7 relates to maximum building heights, which is 42 feet for Phase 1; Phases 2-6 would adhere to the 30-foot maximum for R-2; and Phases 7 and 8 would be 35 feet in the R-4 zone.

Condition 8 is the provision for utilities and that appropriate easements and services will be in place for each phase of this development.

Condition 9 talks about the need for the alternative access at NW 60th, which is probably not needed for Phase 1. As this develops out, with the long access into that site and the number of additional dwelling units, the Fire Department may say they need that second access.

Condition 10 deals with the fire code requirements for streets as far as travel width and gross vehicle weight.

Condition 11 also relates to a fire issue assuring that fire hydrants are spaced appropriately. The Fire Department indicates that some fire hydrants may need to be moved around.

Condition 12 is about access. The information provided by the applicant indicates that the primary access is off 101. The applicant did a fair amount of work with ODOT to reach an agreement of where they need to improve 101 to be adequate for this development. It has been a number of years since they obtained that approval; and they will need to have that updated. Tokos said he didn't anticipate anything material in changes to the proposal. Traffic generation won't be any different than previously determined given that the number of units assigned for assisted living or memory care will not generate the same amount of traffic.

Condition 13 is a carryover from the prior proposal and deals with CC&Rs.

Condition 14 acknowledges that the developer has provided an investment of \$2 million.

Tokos noted that there is a fair amount of analysis in the staff report as to how this meets planned development standards and is the type the Commission could approve.

Proponents: Don Huster, Manger of Newport Village, LLC, PO Box 800, South Beach. Huster noted that most of the Commissioners are familiar with this project from previous applications. He said they worked hard for several years to identify a productive use for this property. He noted that the housing market is still very soft. They were looking for a use that was allowable under the current zoning and that was relatively consistent with the planned development approval, meets the market need, would be beneficial to the community, and is economically viable. Huster said they believe that this assisted living and memory care meets all of these objectives. He said that the size of the facility has been determined based on a market study as well as an economic study, which is a critical point in the equation for that. Phase I is a catalyst to get the rest of the project started. Part of the reason for having it the size proposed is that they do have an agreement with ODOT that is still in effect. Part of the cost Phase I needs to bear is the required work at 101. The project needs to be large enough to absorb those costs as well. The market study, for which they contracted with Aaron Brown and Associates, shows that actually there is a need for a facility larger than what is being proposed. The City's 2011 Housing Needs Study shows a higher-age population. There is already a need for special requirements for seniors, which will only continue to grow. The market study tells them that they are not overbuilding. Relating to the Newport Economic Development Study that is just wrapping up, Huster said that in addition to this being a land use application, it is a big step to allowing a business that could be a significant employer. Over 100 construction jobs would be created for a period of two years, and as it transitions into an operational facility, 150 direct and indirect jobs would be created in the community. He noted that is of big significance for economic development. Huster said that, going back a few months, they had to identify the process and what they needed to do before going out for investment. This is the last step of the plan. He said that if someone is considering investing, they want to know this has the approval to move forward. He said this is an important final step.

Huster had a few comments about the Staff Report. The first was in regard to Section 3(c)(x) about a geologic report identifying landslide risks in Phase 6 and 8. Huster noted that they and GeoDesign have parted ways. One reason for that was in the area of Phase 6, GeoDesign put boring equipment into dirt that had been piled there as a result of a road being cut through. He said therefore those results were meaningless. Huster assured that they want to be sure they are building on solid ground. But, he suggests an alternative to a geologic hazards permit would be an updated report from a licensed engineering geologist. Tokos said that under the City's code, if we now have a report, those are the facts we are working off of. Unless the conditions have changed, that is the requirement we are stuck with. He said we could probably put in an allowance that as an alternative to getting a permit, a study could be provided from another engineering geologist indicating those conditions no longer exist. Huster reiterated that they do not want the buildings moving or sliding down the hill; and as they get to those phases, they propose that might be an option for looking at those.

Huster made a quick comment on setbacks. He said they are largely requested because of the terrain of the property. He noted that when looking at senior living type of arrangements, they have a strong desire for single-level living. They need the flexibility to do that and be as attractive as possible to target that market.

Regarding Section 3(c)(xii), in the last paragraph it states that streets and utilities be in place prior to building permits being issued. Huster said he prefers to eliminate putting up a bond because they are private roads, and he feels it is better to pave after the construction is complete rather than prior.

Under Section 3(d)(vi) regarding a homeowners' association, Huster said they are not planning to further subdivide the land. It will be a condominium classification; not the typical planned development homeowners' association.

Huster said that schedule-wise (under Section (3)(D)(xiv)), the ODOT agreement for improvement to 101 is still in effect. With the agreement in place, the approach permit is not expected to be delayed and they could start relatively quickly. The first half of next year is the target. The final design would commence. As the road construction was getting completed,

they would follow up with the building construction. Access to the site could be done on the parallel if things work out. Huster said that as he was reading the staff report, it did take three years of negotiations and discussion and expense to get this cooperative improvement in place. In respect to what was existing, he would like to see wording to the effect that the new planned development they are requesting clears exiting approval only upon ODOT's concurrence of the plan. He wouldn't want the old approval to go away and have no agreement in place. Huster asked about a mechanism for transferring approval to successor entities. The assisted-living facility and that parcel of land will be put in a separate entity. Tokos said it wouldn't be a problem to draft that up in the findings and final order so that language is clearer. Huster said he talked with Fire Marshal Rob Murphy who had looked into the number of units that would require a second emergency access, and he came back with 100 units. Huster thought that was more like apartment units, which is not what they are really doing now. The conversation was left that Murphy will get back to Huster. He said his understanding was that under Phase 1 the second access wasn't necessary. As they go into Phase 2, or at some point, it will be necessary. He wants to have a clear understanding and would like it defined at what point the emergency access would need to be in place. McIntyre agreed that the access off 60th wasn't anywhere near the assisted-living facility. Huster said the street ownership will be private roads with lane width of 11 feet. Constructing wider roads would be more expensive and adds to the cost. He said that 11 feet width is acceptable because of the nature of a senior-living facility. He said that just keeping the streets private is better for this community.

Small asked again how many jobs Huster anticipated being created. Huster said that according to the modeling, it was 100 construction jobs for a period of 1 ½ to 2 years. When the facility is up and running, there would be 150 direct and indirect jobs. These would be low-paying jobs up to very well-paying jobs. He said that is based on Phase 1, which is the best job-creator part of the development. Residents in the independent living units up the hill won't need as much care. There will be additional landscaping. A clubhouse is planned. The development will continue to grow, but the bulk comes in Phase 1. Small asked what the reasoning was behind paving after construction. Huster said to avoid damage to the streets during construction. The utilities would be in. The street surface would be basically gravel and then asphalt the final layer prior to final inspection. McIntyre agreed that typically trucks and construction traffic tear up asphalt so that by the finish of construction you have to redo it. Huster said they are trying to be cost-effective. Small noted that the idea was that an analysis be done to show that the amount of parking would be adequate. But, he has a concern with only three handicap spaces for the assisted-living facility. He wondered if that seemed like a good ratio. Fisher agreed that didn't sound like enough. Huster said that he drove around town to get a feel for that; and Oceanview, which is the closest to what they are proposing, had 72 assisted-living units with 93% occupancy and had 53 parking spaces with 4 handicap stalls. At 2:30 p.m. there were 15 cars total in the parking lot with one in handicapped. McIntyre said he would be interested in seeing a study on the peak periods, like weekends, holidays, etc. He said the parking issue is a concern. He wondered how many people would be employed there. Huster said there would be 80 employees, but because it is a 24/7 operation, they wouldn't be there all the time. McIntyre wondered, assuming half of them will be there, where they are going to park. He also thought that an analysis needs to be done. Tokos said that is the recommendation in the staff report. Fisher wondered why the residents in Longview Hills, which abuts this property, weren't noticed of the public hearing. Huster noted that it's the land owners who are notice, and they live in California. McIntyre noted that the application included a buildings height calculations memo that shows building corners with one at 55 feet and quite a number over and above 42 feet. He asked for clarification of how 42 feet was determined to be the maximum height. Tokos explained that you take the average of several points to calculate that. Some are over and some are under; there will be an average. Croteau asked Huster if he had any comments regarding the staff-recommended conditions. Huster said they could work with all of those. He noted that ODOT's access is beyond the City's control. They do have an agreement in place with ODOT now. That 170 unit number is based on the trip count calculation. If you take the assisted living and memory care, the trip cap for that and the independent senior living for the rest adds up to be the same as for the 101 home subdivision approval. He said they are trying to keep it the same so there is not a big push to them there. Tokos said that we do have to make a finding that the access will be adequate. He thinks in the final findings and final order, he can do that because there is the original ODOT approval for 101 dwellings. He said this proposal is not so dissimilar from that. He doesn't anticipate anything different needed at 101. The applicant has the approval from the State. McIntyre asked if the balance of the 170 additional homes will be condominiums and if those are all going to be in the form of senior independent living. Huster said that is the intent. He envisions small bungalows and different types of retirement homes. He said they want to achieve flexibility to address the market; so if they had a template that allows flexibility for the market as they go forward, it would be helpful. McIntyre said he is concerned about the width of the streets if the balance could be single-family homes with families and working-class people. They need to get access in and out, and he is concerned about narrow street widths reducing the flow of traffic. Huster said that is not the plan. The trip counts have been around independent living units.

Doris Lamb, owner of Adeo In-home Care (previously Heartfelt Hands). Lamb said she has been working with the elderly in this community for over 30 years. Her agency covered Lincoln County, and she sees a need for this. It provides a process and options so the elderly don't have to leave the community to seek assisted living and memory care. She said

there are not very many choices in this area. The Lincoln City facility closed, and Newport is often full; or people choose not to go there and have to head into the valley.

Dr. Richard Beemer, 2545 NE Douglas St, retired surgeon who has lived in the community for over 35 years. Beemer said amen to what Lamb said about the need for this type of facility. Beemer said that his wife, who just retired, used to work with Lamb and has seen people with this need. He said that he personally had knowledge of two couples currently leaving the county to go into the valley to live in a progressive care bungalow because there is nothing like this available here.

Bob Johnson, COO of Mennonite Services Northwest (MSNW), 1679 Victorian Way, Eugene, OR 97401. Johnson said they are a consulting and management company out of Albany. He said they are pleased to support this project. He said that from their experience, the whole coast is underserved in this area. He thinks this project will go a long way in developing those services needed here and allow people to stay here to get those services rather than going to the valley. They are involved in the project because they think it will be good for Newport and beyond. He said the project can be successful based on the market study and communication with people here because Huster will develop a quality community. Johnson said they will be pleased to be involved in the future to manage. Small asked if the Mennonite Services will be part of the management team. Johnson said they will help construct it now and are in the process of developing a management contract. Small asked if this is the same as the one they manage in Albany. Johnson confirmed it would be associated. He noted that MSNW developed out of Mennonite Village. Small noted that facility has an incredible reputation, which speaks well of this project. Small asked if these would be dwelling units that are purchased. Johnson said that part has not been decided yet. There are many types of models; entrance by equity where it's purchased or month-month rentals. He said all that they are talking about at this time is the assisted living and memory care. There were no other proponents present wishing to testify.

Opponents: There were no opponents present wishing to testify, so the applicant waived rebuttal.

Patrick closed the public hearing at 8:00 p.m. for Commissioner deliberation. East said there is definitely a demonstrated need for this type of facility. He thought the Commission should consider approving this action with the conditions that have been reviewed with Tokos. He said the conditions of approval may need some adjustment. Tokos said that if the Commission is inclined to approve this, they can give staff direction to prepare findings and final order for their consideration at the next meeting. Tokos said that from the discussion, he noted three adjustments to work in: On the geotechnical report, to work in an alternative that the developer could get a second opinion instead of doing another permit. He said that the second has to do with requiring pavement prior to occupancy rather than prior to issuing building permits; which we can do. He said the other one is a direction that all continues under the same framework in a manner that is very clear that it applies to the applicant or successor; which we can do. It was noted that another one was dealing with the access issue to 101. Small said that he would like to see it conferred in such a way that the entire plan doesn't lapse if ODOT doesn't redo their approval. Tokos said he could put that in. The point is if ODOT doesn't authorize that, the developer can fall back to the access agreement for the single-family homes. It can be framed in the findings and conditions that the approval is there if that isn't granted by ODOT or if those 101 single-family trips go away and this replaces it. Tokos said we can frame it that way.

Fisher said that he certainly has no complaint with the need for a care facility in Newport. At the same time, he does see a substantial difference between what was approved with Newport Village and the New Blue Water Ridge development. The original planned development would be void after three years unless substantial construction had taken place. That was defined by Huster as construction of one of the 9 phases, 11% of the infrastructure completed, and lots platted. Then again the Commission was asked not to cause that to die even though they hadn't completed 11% but had invested enough millions of dollars that we should feel comfortable approving it. Fisher said that he has been out to the site three times. He was out there today. He said he can't see \$2 million worth of work. He said the agreement from three years ago said \$2 million of work be performed as verified by review of cost documentation. He said he doesn't see that. Fisher said he would like to see a facility like this, but he feels like the financing just isn't there. He said he doesn't want to see a development try to start up and fail. He said he is not convinced this one will make it.

Croteau agreed the proposal fills a need. He believes the criteria are met. He said he shares Fisher's concern, but he is sensitive to the fact that the economy has changed a lot since the start of this project and a change of point of view was required. In hopes of them getting financed, he has to be supportive.

Small said he is really in favor of this concept. He thought it was significant that one thing Huster talked about was the economic benefit to the community. Small sat on that board, and that wasn't one of the areas focused on; but it is a real concern, and he likes the possibility that a retirement-related industry could be an economic boom and source of development for Newport with a significant number of jobs created. Small likes the concept of the assisted living and independent living in combination. In fact, he likes this approach more than the 101 single-family unit development before. Small said he does have a concern about parking. He would agree that the parking analysis be done. He would encourage maybe three handicap but indicate maybe do better than three. If they are really looking to meet the needs of assisted living and retirement community, he would like to see that come into play.

McIntyre noted that in the past the project was approved. The thing he recalls for that project is that the Commission stated their approval that Huster's project had spent at least \$2 million in improvements. There were a lot of improvements. Huster noted that some underground facilities were already placed. There was a tremendous amount of earthwork done. There are smooth areas now that weren't to begin with. There were engineering constraints, and permits were as much a part of getting it done. McIntyre continued that he thinks this is a great project that will certainly fill a need on the coast. He said it has a dynamite location. He said he did have a concern about parking and about height limits. He said that as long as the feasibility for future development is not impacted, and he thinks that has already been looked at. He thought traffic patterns and conditions that will occur in there should be looked at. If only assisted and independent living, that goal is probably covered. McIntyre said that because this project is adjacent to 101, he is concerned about the noise from the highway. He wondered if the City has looked at that. Tokos said the City hasn't looked at that, there are no standards that would get at that. One thing is that there is a pretty substantial setback from the highway, which will help in that regard. There are no specific noise standards; but the applicant has taken care in siting the facility. He said the developer can incorporate elements into the design to further reduce noise. McIntyre said he was fully in support of the application with the various conditions placed on it.

Patrick agreed that there is a real need. He said Lincoln County is a revolving door for the retired. They go to the valley when they need assistance. He agreed the economy has been slow. He said because of that the Commission has been babying this project along rather than see them have to start from step one. Patrick said there is a big increase in height, but the way this property is, there is a canyon between it and any other house. McIntyre added that the property slopes up to the east. Patrick said he had no concern in this case really; unless it would be the building design. He was in favor of doing it.

MOTION was made by East, seconded by McIntyre, to approve the planned development amendments with the staff-recommended conditions and the four adjustments as discussed and that the findings and final order be brought back to the Commission at the next meeting. The motion passed 5-1 in a voice vote, with East, Patrick, Croteau, Small, and McIntyre voting in favor, and Fisher opposed.

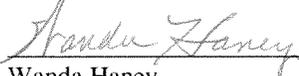
F. New Business. No new business to discuss.

G. Unfinished Business. No unfinished business to discuss.

H. Director's Comments. Tokos mentioned the vacancy on the Planning Commission and said he would come back with a report on the recruiting for that position. He will get a schedule of when it might be filled. If no applications have been received, we will have to re-advertise the position. He encouraged the Commissioners that if they knew of anyone that was interested, to let them know.

I. Adjournment. Having no further business to discuss, the meeting adjourned at 8:18 p.m.

Respectfully submitted,



Wanda Haney,
Executive Assistant