

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, November 14, 2016**

**Commissioners Present:** Jim Patrick, Rod Croteau, Lee Hardy, Bob Berman, and Mike Franklin.

**Commissioners Absent:** Bill Branigan (*excused*) and Jim Hanselman (*excused*).

**City Staff Present:** Community Development Director (CDD) Derrick Tokos, Executive Assistant Sherri Marineau, and City Recorder Peggy Hawker.

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, Hardy, Berman, Croteau, Patrick, and Franklin were present. Branigan and Hanselman were not in attendance for the meeting.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of September 26, 2016.

**MOTION** was made by Croteau, seconded by Berman to approve the Planning Commission work session meeting minutes as presented. The motion carried unanimously in a voice vote.

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

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

5. **Public Hearings.** Chair Patrick opened the public hearing portion of the meeting at 7:01 p.m. by reading the statement of rights and relevance. Lee expressed comments on hearing. Patrick asks the commissioners for declarations of conflicts of interest, ex parte contacts, bias or site visits. Hardy declares ex parte contact on File 2-Z-16 hearing. Contact from individual who didn't understand the purpose of hearing and was advised to contact Tokos with comments or attend this meeting. Croteau declares a site visit on 3-Z-16. 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-Z-16.** Chair Patrick opens the hearing for File No. 2-Z-16 at 7:04 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos presents staff report and notes there were two prior Commission work sessions for this hearing. Modifications were made based on conversations with the Department of Land Conservation and Development and feedback from Hatfield Marine Science Center. This process was referred by City Council. While variance on books for tsunami evacuation areas, it wasn't put in place for this purpose or in place before there was a modern understanding of tsunamis and potential impact on communities. There was a work session on Sept 26th.

Attachment "A" covers code typo. Tokos felt areas identified South of bridge more appropriate and eligible. He notes the standalone structure or portion of the building was changed due to feedback from Hatfield Science Center. This was not discussed at the work sessions. With respect to building specific, they wanted vertical evacuation to accommodate occupancy load. It shouldn't be a problem in most cases in an assembly area. It can be designed for large amount of people. FEMA requirements are included.

Ingress/egress standard plan specifications are slightly modified from Hatfield suggestions. It is in the report because it is policy call. Option "A" and "B" dictations are noted. Tokos requests the commission decide on which option should be brought to the City Council for consideration. Croteau says if state structure they would make the call, but it's not. He states he would go with Option "A". Hardy thinks we should consider general welfare. Berman favors option "B". If going through expenses for evacuation area, the public should be able to say it has been designed for worst possible case. Should be designed to do the best possible job you can. OSU is planning on designing for the

XXL and supports this. Hardy asks if an engineer stamp tells us enough about engineer and asks what kind of guarantee the stamp provides. Tokos says it is their certification that the plans have been designed to the standards. It is the best guess based on their knowledge. Whether or not it is going to be sufficient to withstand a tsunami is the question. The Japanese have gone through this. Some successful, some not. Croteau states it is one thing to build for XXL but in this case, it is on top of building and the entire building needs to be designed to a very high standard. He asks why doesn't every building in a inundation zone go forward with this. Tokos explains they don't design for vertical evacuation. The thought is the people will be out of those buildings and somewhere else. Patrick asks about the 80 feet for the XXL. Tokos says that if you look at tsunami map you are looking at 50-60 feet in height. Hardy asks how are you measuring the wave height. Tokos-based on modeling Bill Gamby did. You don't want to design to the foot and have a margin of error. Patrick states you are still talking 60 feet and can see why OSU is talking about a standalone structure. Tokos doesn't know how OSU wants to tackle it. Patrick says if defined as XXL you better say design to meet it. Doesn't make sense to define as XXL and then only can do a large. Croteau thinks XXL is one possibility. Tokos thinks you can go either way with this and provide a sound policy. XXL provides the greatest safety for the public. On flip side you could make the case that they can't achieve that and do you want to preclude an XL.

Berman notes typo in No. 4 of Alternate "B" to be changed to "to be performed". Tokos confirms the change.

Tokos notes that "Section E. Change on Exemption for Habitation" was added because vertical evacuation areas are not designed for habitation but for an assembly area. Berman asks about Section E and ongoing usage of an area. He asks what would keep anyone from setting up an office in these areas. Tokos says nothing. The concerns above 50 feet are based on our understanding of adequate fire response. Fire Marshall Murphy in the audience tonight and we have had conversations on this.

Tokos doesn't think there will be a lot of these. Provisions in the building code that trigger for high rise development is 75ft or larger and will make anything of this nature cost prohibitive. There is more that goes into this so that the fire department can effectively manage the structure. We were comfortable to limit at 50 feet based on that standard. This is a big change from what we are currently doing. It could be used as lunch room/office. Franklin asks since they are saying it is for a tsunami evacuation building, you are in a sense just raising the height of how it can be built. Yes. Franklin doesn't agree with that. The harm is when you have to put people in the top of the building, there will be desks and chairs in the way. Tokos states when designing for these buildings they won't be able to set them up so it and is unsuitable for that purpose. A vertical evacuation area is a different type of occupancy setup from an office. This will affect how rooms are arranged and constructed. Berman asks if someone can use this ordinance to circumvent around the 50 feet height limit. They would be doing a significant amount of engineering for evacuation and would not be easy. Berman is troubled by this but can see practicality. Croteau asks about 10 feet per person being free space. It is coupled with standards saying they are designing for their occupant load. If it is built for 500 people it would need 5,000 square feet of assembly area.

Rob Murphy, the Newport Fire Department Chief and Manager of the Emergency Management Department for the City of Newport gives clarification on occupant loads and use. If entire occupancy of building has to fit within that space, the assembly use for the fire code means the standing room is 7 feet per person or 10 feet for the FEMA guideline. Most of business occupancy space is 30 feet per person and less than what assembly would allow. They don't get a lot of options on how an office could use the space. When occupancy load is figured, Murphy takes that into account. Occupancy load is based on how the area will be used. Berman asks if usage of the space evolves over time, how often do you come back for reevaluation. Murphy explains on a structure like this, our goal is once a year with a worst case scenario being a 3-year period. Berman clarifies that his question is concerning assembly areas over time having accumulation in the designated area. Murphy states he would tell them they couldn't store their items there based on occupant load.

Murphy has experience with high rises as a fire fighter but first time as a fire chief. If this was an integral part of structure with regular stories above 50ft he would have concerns on operational limitations. High rise building is extremely difficult. The recent City Center Motel fire had every firefighter in the county working it. If there was a high rise fire over 4 stories it would have challenges mainly due to man hours. The next ladder truck is in Lincoln City and only one here. He would need 3-4 trucks for a high rise and not a reality for us. Franklin asks since it is a four story building would it be all noncombustible? Murphy states just to meet the seismic standards it would probably be a type 1 bldg. Franklin says this may be the reason they don't want to store a bunch of documents in that area. Once Murphy found out more about it he had less concerns with it being an evacuation structure. When talking about high

rise buildings, he suggests some of the requirements for smoke proof exit enclosures start in at the 75-foot height and promotes self-egress. This probably doesn't apply to this. Patrick asks about standalone structures. Murphy imagines them being open structures like parking structures. Tokos clarifies the code is drafted as either standalone structures or incorporated into a building. He doesn't know the approach they intend to pursue at this time. We have the ability through the fire code side to pursue more robust standards. He cautions on building side as we operate on a state mandated minimum/maximum code. We can't really play around on building side but fire has a little more flexibility. There are specific standards for lavatories.

**PROPOSERS, OPPONENTS, OR INTERESTED PARTIES:** None present.

Chair Patrick closed hearing at 7:40pm and commenced deliberations.

Franklin favors building to the worst case scenario. If you are letting them build for a lower height, they are only building the structure to appease the people and could potentially be putting people in harm. If they're serious about making this to save lives, it needs to go to the highest level at XXL.

Croteau feels XXL is a moving target and too much of a restriction. Hesitant to lock in specifications based on such an uncertainty.

Berman believes XXL is the appropriate standard. It's time to do some precise scientific work. If they do it, they will automatically adjust. If they do decide there is a possibility of a XXXL we can revisit. It is the worst case scenario and thinks that is what these buildings should be built to.

Hardy thinks the purpose here will enable an entity to express some high risk behavior. She thinks the City in its own best interest needs to require some of the higher standards of performance including the objective third party engineering review on a daily basis. It will add an additional cost, but if an event would occur, think of what they would have to do to rebuild anyway. If spending money upfront it should be spent with an eye to ensure longevity and public welfare. Hardy believes designing to the XXL standard is appropriate and we can revisit if the standards are changed. We haven't experienced any of these events and is a big unknown. Need to ensure what we do is done to the highest standard possible.

Patrick feels if you are going to make your map to XXL it should be the standard we build to. He is not fond of this. Another problem with structures getting really tall is it is not so much standing structures as when you put it on a building. If you put it on a building there is going to be a tendency to want to use the area. Standalones wouldn't have much reason to be accessing the area. Croteau asks Patrick if what he is hearing him say is they could build the building to whatever standard they wanted but separate structure to the XXL. Patrick states if you are going to have the standard you are going to have the standard for XXL and it should be built to it. Croteau states you can build an evacuation structure cheaper and is in essence what we are driving OSU to do. Patrick says he was looking at a map and it showed it at 80-feet above sea level and would mean a 90-foot structure.

Franklin asks if before this evacuation idea was brought forward, could anyone have built this structure in South Beach and not been required to do a vertical evacuation. Tokos states nobody is required to do a vertical evacuation and this is an option. Franklin is scared of the false sense of security. Patrick reminds that earthquakes and tsunamis don't always line up. It depends on how it is moving.

Croteau feels as a practical sense the building will not be built with this standard but the evacuation structure will. Will be hard to buy in to XXL because he doesn't think they could build a building of that size to withstand that. Franklin feels as long as there is access from all sides of building it is good. Croteau says it would allow for a larger footprint. They wouldn't have to build as high and would have lower costs. Tokos doesn't know what their intentions are at this time in terms of whether or not to incorporate it into the building proper or produce a standalone. We are discussing a sort of hybrid. There is no detailed design at this point and will have more info later in year.

Patrick feels we should add that in the lowest floor rooms, you can go higher than 50 foot and have occupied floors. This is speaking to Robert Murphy's points. Tokos states what we are talking about is assembly area type occupancy up there with limited applications.

Berman asks if the optional standard should read the highest floor. Tokos meant the lowest floor itself at that level shouldn't be below 50ft. Occupant load will be in consideration as well as fire exits. It is hard to distinguish occupancy.

Murphy explains this kind of use is almost its own classification. It doesn't really fit under the "U" classification. Berman asks if Murphy is comfortable with using occupancy limits. Murphy states with the right controls and direction on use we could. We need to be very particular with what that use is and whether we address this as a committee or on the building code end. Tokos reiterates we have a fair amount of leverage on the fire code and it may come down to actually seeing a specific proposal for us to be able to address some of these things.

Berman asks if occupancy certification can have restrictions. Murphy says from a fire safety standpoint he can; he has the right to but they can appeal. Croteau asks hypothetically what would Murphy prefer. Murphy prefers option "B" but thinks we can work with option "A" as long as we are clear with expectations. There are not a lot of options on what they can use the area for option "A".

Croteau states he is persuaded by the argument and doesn't feel XXL is going to preclude construction. That being said, he is not prepared to make a motion.

Hardy asks for clarification on what the other optional standards are. They are the optional standards on page 3 and 4. Hardy feels clearer definition of wave height is needed. People may make an assumption of this and what it implies. Patrick would like to know what this is as well. There is a question if it is sea level or ground level.

Berman references a paragraph in the document that the inundation maps suggests "wave heights for XXL not likely to be in excess of 70 feet". All areas in South Beach are at 12 feet and unlikely a structure over 75 feet would be needed. Berman states this is a different discussion having to do with fire or high rise but is a statement for a baseline for discussion.

Hardy feels a need to be stricter on wording with engineer oversight and qualifications. Patrick likes what we have. If engineer is going to put their stamp on it and tell you how much inspections you are going to need, that is good. He is more worried about finding an expert to hire in Oregon. They may not be available in Oregon but in Japan. They could get a local firm to sign on and use someone in Japan to design it.

Hardy states because of seeing the oversight in the last years in the county, she is worried about engineers being held accountable. She would like to see it a little tighter and is not sure if she is suggesting an amendment. Patrick feels it is better than a lot he has seen. Hardy feels it is a good start.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Franklin, to forward a recommendation to the City Council to adopt the changes to Chapter 14.10 in height limitations as outlined in red on the document and include standard No. 3 alternative "B" as worded, not including the other optional standards. The motion carried in a voice vote with Hardy voting "No".

**B. File No. 2-Z-16.** Chair Patrick opened the hearing for file 3-Z-16 at 8:31 p.m. by reading the summary of the file from agenda. He calls for the staff report. Tokos notes that there is no development proposed with this project and is just a rezoning of particular properties. He acknowledges that Kevin Greenwood, from the Port of Newport is in attendance for this hearing.

Berman states he is confused on maps. He says Attachment "A-2" talks about two areas that will swap zoning and would like clarification on which two areas are they. Tokos explains that on Attachment "A-2" the cross hatch is the existing W-2 they have and would go to W-1. East of that the highlighted area goes from water related to water dependent. There are two halves of the 9/10ths of the acre that are going from water related to water dependent then another going from water dependent to water related and is an equal area. Tokos explains why the adjustments are appropriate and the rationale for the zoning change. He notes there is not impact on transportation or vehicle trips.

**PROPOSERS, OPPONENTS, OR INTERESTED PARTIES:** Kevin Greenwood, General Manager of the Port of Newport thanks the City for bringing the opportunity and allows for flexibility if and when it comes. The Port Commission has been protective of the two-acre area for the fishing fleet. A developer approached the Commission

to put in a small boutique hotel and the Commission felt it wasn't the direction they wanted to go in. They are committed to using the area for fleet support for long term.

Berman asks what the short term plans are for use for the new W-1 area. Greenwood explains that at this time the Port doesn't have any specific plans for development and it isn't a high priority for them. They have talked a little about using it for potential parking and for equipment support or storage. Retail is less of an interest. The fish market was an idea in the past but not a huge interest in going that direction by the Board. It is more so for the commercial fleet interests. They are giving up more of the industrial type zoning. The new zoning could be more commercial/industrial for fleet. Tokos explains the retail piece would now be 9/10th of an acre.

Greenwood wanted to compliment Tokos for the three different proposals he gave to the Commission and how he showed how the land could be reappportioned. The Commission agreed with Tokos' recommendation of having a more flexible zoning closer to Englund and the Yacht Club. Greenwood explains it was a consensus but doesn't think it was a formal motion.

Chair Patrick closed hearing at 8:17 p.m. and commenced deliberations.

The Committee agrees that they have no issues and proposal makes sense to each.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to recommend adoption of the amendments described in File No. 3-Z-16. The motion carried unanimously in a voice vote.

6. **New Business.** No new business.

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

8. **Director Comments.**

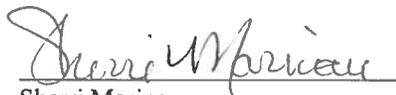
A. Tokos states the second meeting of the 2040 Advisory Committee happens on Wednesday, November 16, 2016. The website is up now if interested in how the process is progressing. The group is meeting at 9:30am to discuss additional pieces and a large public outreach.

B. Marine Studies Initiative Building Outreach meeting will be held on Thursday, November 17, 2016 from 5-7pm at the Hatfield Visitor Center. Tokos encourages Committee to attend. The design team had some questions on issues they should be thinking about before building facility. They will do this by doing outreach upfront. They will have some graphic to visualize and are preliminary drawings. This is an information gathering meeting where they show where they are at, where they want to go, and gather feedback and concerns.

C. Berman asks what is happening with Vertical Evacuations. Tokos explains the height limitation will get notice for City Council action possibly on Dec 5th. If adopted, on that day it will be effective 30 days out. OSU knows of this hearing.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:20 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant