



PLANNING COMMISSION WORK SESSION AGENDA
Monday, May 09, 2016 - 6:00 PM

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER

2. UNFINISHED BUSINESS

3. NEW BUSINESS

3.A. Interview applicants for the Planning Commission's Citizen Advisory Committee vacancies.

[Applications.pdf](#)

3.B. Status of vacation rental code modification discussion.

[Vacation Rental Code Discussion.pdf](#)

4. ADJOURNMENT

RECEIVED

Date: 6 OCT 15

OCT 8 2015
CITY OF NEWPORT

Application
For
City of Newport
Committee Appointment

Which committee are you interested in serving on (list in priority order if you are interested in multiple committees):

PLANNING COMMISSION Advisory Comm.

Name: ROBERT HEIDA

Address: [REDACTED]

Telephone Numbers: Cell: Home: [REDACTED]

E-Mail Address: [REDACTED]

Occupation: RETIRED ELECTRICIAN

Employer:

(1) Why would you like to serve on a City of Newport committee?

I LIVE HERE AND I CARE

(2) What is your educational and professional background?

H.S. GRADUATE
TRADE SCHOOL - IBEW 23 YRS

(3) Have you ever served on a community committee? If so, what kind?

NO

(4) Do you agree with consensus decision making?

YES

(5) Are you willing to attend regularly scheduled meetings for the term of appointment?

YES

(6) Would you make decisions based on the facts and standards even though you may not agree with the ultimate decision?

YES

(7) Do you anticipate having any conflicts of interest, due to personal and/or business relationships, that may disqualify you from making decisions?

NO

(8) List all other pertinent information/background for this position.

NOT SURE WHAT INFORMATION/BACKGROUND IS PERTINENT TO THIS POSITION, BUT I SPENT 7 YRS IN THE USCG, AND 35 YRS WORKING MOSTLY IN BLDG TRADES. ALSO I'M A HOMEOWNER + CONCERNED CITIZEN.

Thank you in advance for your community spirit in offering to serve! Please return to

City of Newport
City Manager's Office
169 SW Coast Highway
Newport, Oregon 97365
541.574.0613

Wanda Haney

From: Peggy Hawker
Sent: Monday, April 18, 2016 3:33 PM
To: Wanda Haney
Cc: Derrick Tokos
Subject: FW: Committee Application

Hi Wanda,

Karmen is interested in serving on the Citizens Advisory Committee for the Planning Commission. Her info is below.

Thanks.

peggy

-----Original Message-----

From: CommitteeApp@newportoregon.gov [mailto:CommitteeApp@newportoregon.gov]
Sent: Tuesday, February 23, 2016 7:55 PM
To: Cindy Breves <C.Breves@NewportOregon.gov>; Peggy Hawker <P.Hawker@NewportOregon.gov>
[REDACTED]
Subject: Committee Application

Application for City Council - Email Application
Date: 2/23/2016
Commission/Committee of Interest: Citizens Advisory Committee
Name: Karmen Vanderbeck
[REDACTED]
Newport, OR 97365

[REDACTED]
[REDACTED]
[REDACTED]
Occupation: Banker
Employer: Columbia Bank

Why do you want to serve on this committee/commission/board/task force, and how do you believe you can add value?
My family has resided in Newport since 1985- I have lived here since 2005. I believe it is tremendously important to always give back to the community you live in. As such, I have tried to be as involved with our community as possible. I have served as a Field Staff Officer Secretary for the USCG FL54 Yaquina Bay Station (5 years). I also served on the Board of the Friends of Yaquina Lighthouses for 4 years. I served on the Hospital Foundation Committee for special events (including the Festival of Trees) for many years. I have been in the financial services industry for over 40 years. As a banker in this community for the past 10 years, I have served a large number of personal customers and business owners.

What is a difficult decision you have made concerning issues of bias and/or issues of conflict of interest? As a banker, you make difficult decisions each day. Although there are some occasions when we cannot say "yes" to a customer, a "no" is always respectful of their position and always tries to provide the customer with other options to assist. The

hardest decisions though most often relate to employees. At all times, we remove our personal feelings from any of these conversations and determine what is best for the bank first; then we decide how we can coach the employee to succeed or, in some cases, terminate them. Bias is not an acceptable word to a banker.

Describe the process of how you make decisions. I make decisions by: learning as much as I can about the situation; I ask questions and take notes; I listen to other input from team members. If I have an opinion I offer it and then wait for other team members to provide their opinions. If all of us are honest and objective a consensus of the best decision is usually reached.

What do you think about consensus decision making? What does the consensus decision making process mean to you? I guess it is probably obvious from my answer in number 3, that I think consensus decision making is a wonderful asset to a successful committee!

Describe all other pertinent information/background for this position. I believe I have provided all pertinent information.

Wanda Haney

From: Cindy Breves
Sent: Wednesday, February 03, 2016 10:57 AM
To: Derrick Tokos
Cc: Wanda Haney
Subject: FW: Committee Application

Cindy Breves
Executive Assistant to the City Manager/Court Clerk
169 SW Coast Highway
Newport, OR. 97365
541-574-0603
c.breves@newportoregon.gov

-----Original Message-----

From: CommitteeApp@newportoregon.gov [mailto:CommitteeApp@newportoregon.gov]
Sent: Tuesday, February 02, 2016 1:09 PM
To: Cindy Breves <C.Breves@NewportOregon.gov>; Peggy Hawker <P.Hawker@NewportOregon.gov>
[REDACTED]
Subject: Committee Application

Application for City Council - Email Application
Date: 2/2/2016
Commission/Committee of Interest: **Planning**
Name: **Marvin Straus**

[REDACTED]
[REDACTED]
Newport
97365

Workphone:
[REDACTED]
[REDACTED]

Occupation: retired telecommunications manager
Employer:

Why do you want to serve on this committee/commission/board/task force, and how do you believe you can add value?
Donating my time, skills, and experience to the City of Newport and the Planning Commission would enable me to "give back" to my community.

What is a difficult decision you have made concerning issues of bias and/or issues of conflict of interest? I was the chair to T1Q1-A US Dept of Commerce Standards Committee, working on audio standards. If a company's algorithm was accepted, it prospered. If its algorithm was not accepted, it could have gone bankrupt. I tried to run the committee with an even hand, giving all parties the opportunity to present their case, and then tried to encourage members to make a fair and expeditious decision.

Describe the process of how you make decisions. 1) Define the problem.
2) Reach out for all points-of-view on the problem.
3) Gather data that is unrelated to the emotion of the issue.
4) List all of the possible solutions, their details, and their pros and cons.
5) Make the decision.

What do you think about consensus decision making? What does the consensus decision making process mean to you?
Consensus must be part of the decision making process.

Describe all other pertinent information/background for this position. I am a home owner in Newport. My background is electronics and computers. Although I do not have an engineering degree, I have worked for Bendix Field Engineering, NASA, and the Bell System. I hold a patent for measuring motion artifacts in digitally compressed video. Before I retired in 1993, I was a Member Of Technical Staff for U S West Advanced Technologies in Boulder, Colorado. My occupational ethic is work well with others while accomplishing the task at hand.

Memorandum

To: Newport Planning Commission
From: Derrick Tokos, Community Development Director 
Date: May 6, 2016
Re: Implementation of Newport's Vacation Rental and Bed and Breakfast Codes

On May 2nd the Newport City Council received a report from staff describing the process that was undertaken in 2011/2012 to update the City's regulations for vacation rental and bed and breakfast establishments. The report also includes a summary of how the program has been working since the regulations were adopted and a discussion regarding the relationship, or lack thereof, between vacation rentals and workforce/affordable housing. Emails from VACASA and ECONorthwest were provided to the Council independent of the staff report.

The report was prepared at the request of Councilor Engler, who is concerned about the impact vacation rentals are having on the availability of housing in Nye Beach, so much so that she requested the Council consider a moratorium. A map included with the report illustrates that there is a concentration of vacation rentals in the Nye Beach area.

After reviewing the report and discussing the matter, the Council determined that no immediate action is needed. Instead, they felt that the situation should be monitored and if the number of vacation rentals begins to escalate rapidly from the 149 currently registered then they would reconsider their options. Community Development Department staff will continue to provide regular updates in its department reports, which are posted to the City's website at: <http://newportoregon.gov/citygov/dr.asp>

This work session agenda item has been scheduled to provide the Planning Commission with the same information that was made available to the Council. Staff will be available to answer questions. No specific action is being requested of the Commission at this time.

Attachments

- City Council staff report with attachments
- Letter from VACASA
- Census Data from ECONorthwest

Memorandum

To: Newport City Council
From: Derrick Tokos, Community Development Director 
Date: April 28, 2016
Re: **Report on Vacation Rentals and Bed and Breakfast Establishments in the City of Newport**

The City Council, at its April 18, 2016 meeting, requested a report on the work that was done in 2012 to overhaul the City's Vacation Rental and Bed and Breakfast (B&B) regulations, and how that program has been working since the new rules were adopted. This memo also includes relevant statistics and options the Council may elect to consider moving forward.

Vacation Rental and B&B Rules Prior to 2012

Limited vacation rental use was permitted outright in all of the City's zoning districts under the definition of a "Weekly Rental," which allowed a unit to be rented not more than 10 times in a calendar year. No city review was required prior to a unit being offered as a rental, and the City had no information as to how many such rentals existed. Persons desiring to offer a vacation rental more than 10 times a year, or those seeking to establish a bed and breakfast use were treated as hotel/motel uses, permitted as conditional uses in the City's R-3 and R-4 residential zones and outright in the City's C-2 zone district. A total of 52 vacation rentals and 12 B&B establishments had been permitted through the conditional use permitting process as of 2010.

Reasons for Amending the Vacation Rental Rules

In September of 2010, the Planning Commission determined that amendments were needed because the existing rules were difficult to interpret and enforce and, in the case of conditional uses, had led to inconsistent application and implementation of the requirements over time. The Commission was further concerned that no uniform, clear and objective approval criteria existed and that safety standards that apply to conventional hotel/motel uses were not in place for B&Bs and vacation rentals (i.e. not a level playing field).

2011-2012 Amendment Process

The Planning Commission undertook an extensive code review and outreach process to develop the amendments that were ultimately adopted by the City Council in April of 2012. The project took roughly 18-months to complete and included the following key elements:

A. Desired Outcomes: In February of 2011, the Commission put together a list of desired outcomes to assist staff and an Ad-Hoc work group that it formed. That list read as follows:

- The process should take a fresh look at where vacation rentals should be allowed.
- Maximum occupancy should be explored.

- Standards should address how vacation rental use is different than single-family dwelling use.
- Criteria should consider parking and sanitation.
- Focus should be on developing clear and objective standards
- Keep the process simple.
- Develop more precise definitions.
- Maintain a complaint driven approach to enforcement.
- Establish a fee to offset costs to the city to administer the program

B. Formation of Ad-Hoc Work Group: An Ad-Hoc work group of community volunteers met seven (7) times between March and November of 2011 to develop a set of recommended amendments for the Commission to consider. The group consisted of the following individuals:

- Tracy Wiley – Embarcadero Resort
- Rob Oberbillig – Homeowner
- Lee Hardy – Yaquina Bay Property Management
- Bob Berman – Homeowner
- Cindy Reid – Vacation Rental Owner
- Joya Menashe – Agate Beach Services (Vacation Rental Manager)
- Melanie Sarazin – Planning Commission Liaison

Mr. Berman and Mr. Oberbillig were asked to serve on the group because each had direct experience with the adverse impacts that vacation rentals could have on a residential neighborhood. Both Lee Hardy and Bob Berman are now members of the Planning Commission; however, at the time they served as members of the Ad-Hoc work group they were not.

C. Code Review, Outreach and Recommendation: The Ad-Hoc work group evaluated vacation rental codes from nine (9) different jurisdictions and from that developed common themes that informed their work on the amendments. The jurisdictions included Lincoln City, Manzanita, Bandon, Astoria, Cannon Beach, Seaside, Sisters, Durango (CO), and Sonoma (CA). An overview of the key elements of those codes is included as "Attachment A" to this memo.

The group borrowed extensively from the work these jurisdictions had performed and developed a proposal that was vetted with the public at a workshop held on September 11, 2011. Notice of the workshop was sent out to all vacation rental and B&B owners of record and with the August utility bills. Key provisions of the proposal, much of which was ultimately adopted, included:

- Allowing vacation rentals and bed and breakfast establishments in all zones subject to a license with clear and objective criteria regarding (a) occupancy, (b) parking, (c) waste management, (d) landscaping, (e) safety of renters and (f) issue resolution.
- An over-the-counter approval process.
- A conditional use option if the clear and objective standards could not be met.
- No grandfathering of existing rentals and B&Bs.

Regulatory options presented to the public attending the workshop are included as Attachment B to this memo. Close to 90 comments were received from the public (Attachment C) and those comments were addressed by the Ad-Hoc work group before a final recommendation was made to the Planning Commission (Attachment D).

D. Adoption Process: The Planning Commission met six (6) times in work session to review the draft amendments. This occurred concurrent with the Ad-Hoc work group meetings. Commission members also attended and helped to facilitate the public workshop. Public hearings were held in January and February

of 2012. Stakeholders were invited to testify at these proceedings. At the February 2012 meeting the Planning Commission recommended a final package of amendments for the Council's consideration. In March of 2012 the City Council adopted the changes as recommended. The new vacation rental rules were effective July 1, 2012.

Vacation Rental and B&B Process Post Adoption

It took a couple of years to bring all of the existing vacation rental and bed and breakfast establishments into the fold under the new rules. This was in part due to the requirement that each unit be inspected by the Building Official to ensure that it met safety standards. In many cases, owners had to make corrections and in some circumstances an extensive amount of work was required. This took time to sort itself out. There were also a number of units that came in late, namely at the Embarcadero, due to changes to their management structure and follow-up revisions the City made to its codes. From 2014 forward the City has had a pretty good count of vacation rentals and bed and breakfast establishments. This is checked periodically against VRBO and AirBnB, with non-compliant owners being notified and brought into the process. A map showing the current distribution of vacation rentals and B&Bs is enclosed (Attachment E). Also, here are a few relevant statistics:

VRD and B&Bs since 2012

Applications received: 191
Inspected to date: 185
Passed inspection: 172
In operation today: 149
Complaints received: 3

Distribution by Zone District

R-1 – 6%
R-2 – 14%
R3 – 6%
R-4 – 20%
C-2 – 30%
W-2 – 24%

As illustrated on the map, a number of the units are concentrated in the Nye Beach area, which is not surprising given the proximity to the beach, restaurants, shopping and ocean views. In fact, it is pretty clear from the map that factors such as ocean/bay views and proximity to services are driving factors for what makes a unit desirable for vacation rental use. Zoning designations have little if any impact. The City has received complaints on three (3) vacation rental units since 2012. The issues related to trash management, parking, and advertising in excess of permitted occupancy. This small number of complaints may be partially attributed to the fact that the City asks neighbors to address their concerns to the persons managing vacation rental units. If that is not effective, then the City would step in to help resolve the issue. Note that there is a significant difference between applications received and units that are currently being rented. Some of the applicants never completed the process as a result of the safety repairs they would need to make, others were picked up by hotels/motels and are managed under their hotel/motel business license (e.g. the Whaler), and several are simply a result of the owner either selling the unit or electing to no longer make it available as a vacation rental.

Relationship between Vacation Rentals and Affordable/Workforce Housing

There does not appear to be any available data showing how vacation rentals influence the availability of workforce and affordable housing, other than they are part of the seasonable housing mix that reduces the supply of housing for year round tenants. It is an open question whether or not units managed as vacation rentals would be affordable if offered for sale, or if they would simply be held as second homes and would therefore be unavailable. As of the 2010 census, which is now somewhat dated, there were 5,540 housing units in the City of Newport. Of that number 766 (13.8%) were reported as being in seasonal, recreational, or occasional use. Vacation rentals are a small fraction of that figure. It may be that the percentage of housing units in the City used for seasonal purposes is on the rise, we just don't have any data to that effect. It would also be very difficult to develop such data.

Enclosed is an email from Lee Hardy, Yaquina Bay Property Management, indicating that she does not believe she has ever had a client who had a long term rental switch to a vacation rental use (Attachment F). She also

notes the influence that the recession had on the rental market. Patricia Patrick with Dolphin Realty, and Bonnie Saxton with Advantage Realty may also weigh in on this issue, and any feedback staff receives from them will be forwarded to the Council.

Next Steps

The Council has a number of available options, a few of which are listed below in no particular order:

- Take no further action at this time.
- Actively monitor the City's vacation rental regulatory program with periodic reports from staff. This could be on a 6 or 12-month basis.
- Direct the Planning Commission to review the vacation rental regulations and provide a recommendation to the Council as to whether or not revisions should be made to the City's rules. The Council could provide the Commission with specific issues that it would like it to consider.
- Seek additional analysis from staff on whether or not a moratorium can be justified given the statutory limitations. A brief memo from City Attorney Steve Rich is enclosed addressing this issue (Attachment G).

Attachments

Attachment "A": Ad-Hoc Work Group Review of Sample Codes, dated March 24, 2011

Attachment "B": Handouts Used at September 2011 Public Workshop Listing Regulatory Options

Attachment "C": Public Comments Received at the September 2011 Workshop

Attachment "D": Ad-Hoc Work Group Options for Addressing Open House Comments

Attachment "E": Distribution of Vacation Rentals and B&Bs in the City of Newport as of April 2016

Attachment "F": Email from lee Hardy, Yaquina Bay Property Management

Attachment "G": Email from Steve Rich, Newport City Attorney

CITY OF NEWPORT VACATION RENTAL CODE UPDATE

Review of Sample Codes

March 24, 2011

Work Group Meeting

Commission's Desired Outcomes

- Open to fresh look at where vacation rentals should be allowed
- Maximum occupancy should be explored
- Standards should address how vacation rental use is different than single-family dwelling use
- Criteria should consider parking and sanitation
- Discretionary criteria ok, but focus on clear and objective standards
- Keep process simple
- Need more precise definitions
- Satisfied with complaint driven enforcement program
- There should be an appropriate fee to off-set administrative costs

Jurisdictions Sampled

- ▣ Lincoln City
- ▣ Manzanita
- ▣ Bandon
- ▣ Astoria
- ▣ Cannon Beach
- ▣ Seaside
- ▣ Sisters
- ▣ Durango, CO
- ▣ Sonoma, CA

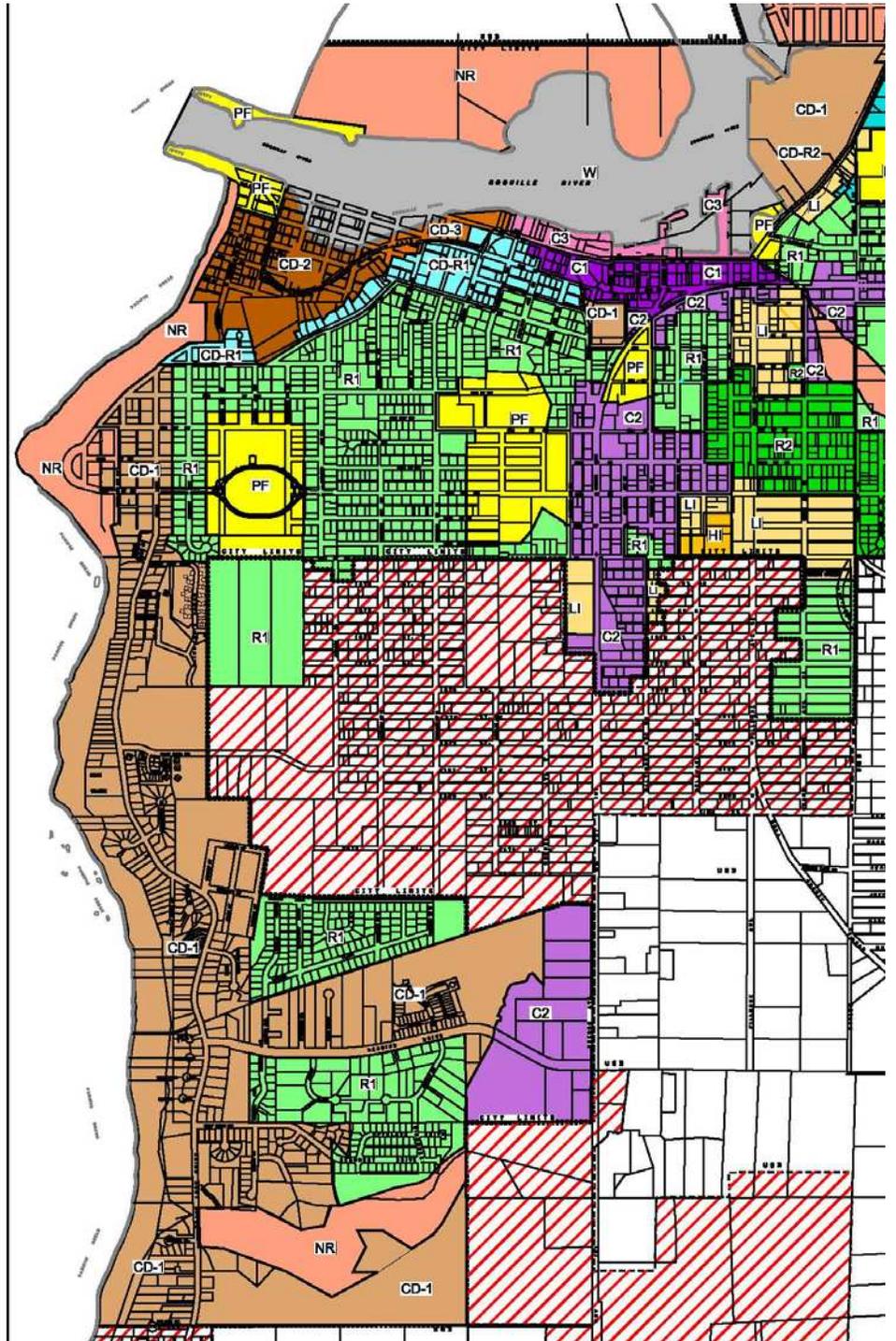
Rationale for Regulating

- ▣ Ensure safety and convenience of renters, owners, and neighboring property owners (Manzanita)
- ▣ Protect the character of residential neighborhoods (Cannon Beach, Bandon)
- ▣ Address perceived negative effects such as noise, overcrowding, illegal parking, litter, etc. (Lincoln City, Durango)
- ▣ Prevent conversion of residential land supply to transient use (Sonoma Co. prohibition in high density residential zones)

Locations Allowed?

- ▣ All residential areas with a cap on number of licenses issued in certain areas (Manzanita, Cannon Beach)
- ▣ All residential/commercial areas (Lincoln City)
- ▣ Select residential/commercial areas (Bandon, Seaside, Durango, Sonoma Co.)
- ▣ Residential areas only (Sisters)
- ▣ Commercial areas only (Astoria)

Band on code limits
Vacation rentals to
"CD" districts, which
the attached map
shows are those areas
close to the ocean
and river.



Density Limitations

- ▣ Ownership based. Licenses limited to one per owner of residential property within the City (Lincoln City, Cannon Beach, Manzanita)
- ▣ Proximity based. Allow if number of vacation rentals within a fixed distance is under a certain percentage (Bandon 30%/300 ft., Seaside 20%/100 ft.) Allow if there are no vacation rentals within a fixed distance (Durango 500 ft.)
- ▣ Ratio based cap or hard cap. Total number of licenses in certain residential districts limited to 17.5 % of total dwellings (Manzanita). Transient rental permits capped at 92 permits (Cannon Beach)

Maximum Overnight Occupancy

- Limit of 2 persons per sleeping room plus 2 additional persons per property up to a max. of 12 persons (Cannon Beach, Sonoma Co., Durango). Cannon Beach and Sonoma exclude small children (Age 2 or 3)
- Max. occupancy above reduced if off-street parking requirements cannot be met (Cannon Beach, Durango)
- Two persons per sleeping room plus an additional 4 persons. No tie to parking, but cannot later expand structure to increase occupancy (Manzanita)
- Three people per bedroom up to a max. of 10 (Bandon)
- Three per bedroom, and can be reduced by Code Enforcement or Fire Marshal for valid reasons (Seaside)
- Based upon available off-street parking (Lincoln City)
- Discretionary. Compatible with nearby uses (Sisters)

Tenancy Limits

- ❑ Other than the 92 permits under the hard cap, tenancy is limited to 1 rental every 14 to 30 days (Cannon Beach)
- ❑ Rental shall not exceed 1 individual tenancy within 7 consecutive calendar days (Durango)
- ❑ Prohibition on joint use (i.e. home occupation, temporary events, etc.) (Durango)

Maximum Guests (as opposed to overnight occupancy)

- Max. overnight occupancy plus 6 individuals, excluding children under 3 years of age. May be exceeded on national holidays (Sonoma Co.)

Off-street Parking Requirements

- ❑ Scaled standard based upon size of home. 1 space for 2 sleeping rooms, 2 spaces for 3-4 rooms, 3 spaces for larger homes (Sonoma Co.)
- ❑ Based upon bedrooms. One space per bedroom, but in no case less than 2 spaces (Bandon, Lincoln City, Seaside). 1 space per bedroom w/ no min. (Durango)
- ❑ Based upon occupancy. 1 space for every 3 dwelling occupants (Cannon Beach)
- ❑ Traditional single family dwelling standard. 2 spaces (Manzanita)
- ❑ Discretionary. Adequate site layout for transportation facilities (Astoria)
- ❑ Use of on-street parking prohibited (Lincoln City, Durango)
- ❑ No triple stacking of parking (i.e. a vehicle crossing parts of two off-street spaces to park) (Lincoln City)

Waste Management

- ❑ Owner required to maintain residential waste disposal service (Lincoln City, Cannon Beach)
- ❑ Dumpsters prohibited (Lincoln City)
- ❑ Provisions for regular garbage removal (Bandon)
- ❑ Recycling and refuse storage bins shall not be stored in public view unless in compliance with neighborhood standards (Sonoma Co.)
- ❑ Use of covered and secure containers required, with side yard pickup. Service at least once a week (Manzanita)
- ❑ Exterior storage of trash receptacles prohibited (Durango)
- ❑ Discretionary. No adverse impact on livability (Sisters)

Landscaping/Maintenance

- ❑ No change permitted to residential character of the outside appearance of the building (colors, materials, lighting, etc.) (Durango)
- ❑ 50% of front yard, and 40% of total yard must be landscaped. No more than 50% of landscaping can be hard features such as patios and decks. Must be maintained. Ground cover must be sized to cover 50% of landscaped area in 3 years (Lincoln City)
- ❑ Front, side and rear yards must maintain residential appearance by limiting off-street parking in yards. 50% landscaping requirement (Seaside)
- ❑ Discretionary. Dwellings must be maintained at or above levels of surrounding dwellings (Bandon)

Noise

- ❑ Must meet County fixed standards. Quiet hours 10:00 pm to 9:00 am. No outdoor amplified sounds allowed (Sonoma Co.)
- ❑ Must adhere to City noise standards (Durango)
- ❑ Discretionary. No more objectionable noise is emitted from the rental than a normal neighborhood dwelling (Bandon).
- ❑ Where codes are silent, City general noise or nuisance codes would likely govern. Newport's noise limit for residential areas is 55 dBA (daytime) and 50 dBA (nighttime) at the property boundary

Safety Requirements

- Certification of compliance with Residential Building Codes and/or subject to initial inspection for building code safety issues (Manzanita, Cannon Beach, Durango)
- Requirement that vacation home rentals be subject to same periodic health and safety inspections as other temporary lodging establishments (Manzanita, Cannon Beach, Lincoln City, Durango). Cannon Beach program setup as audit of 20% of dwellings over a five year period.
 - In Newport hotels/motels are inspected by the Fire Department 1-2 per year. Inspections on vacation rentals 50/50 due largely to absentee owners (i.e. trouble lining up inspection times).
- Owners required to provide information and equipment in the unit to assist renters in dealing with natural disasters, power outages, and other emergencies. Delegate list of required items to Council via resolution (Manzanita) Working fire extinguisher (Durango). Working smoke alarms (Lincoln City).

Guest Registry Requirements

- ❑ Owner required to maintain guest and vehicle registry including tenant contact information and vehicle license plate numbers for dates visited. Information to be made available to the City upon request (Cannon Beach)
- ❑ Same as above, except vehicle information isn't tracked (Lincoln City)

Contact Information

- ❑ Property owner shall provide a current 24-hour working phone number of the property owner or manager to the County and all neighbors within 100 ft of property (Sonoma Co.)
- ❑ Same as above, but contact must reside in county (Seaside)
- ❑ Contact must reside within City UGB or a property management company with a staffed office within 10 miles of the City. City provides contact info to neighbors within 200 feet (Cannon Beach)
- ❑ Local contact or management company must be within City UGB (Lincoln City)
- ❑ Contact must be available 24-hours a day, have a key, and be able to respond in 30 minutes (Manzanita)
- ❑ Local contact required. Info filed with Police Dept. Not required to be distributed to neighbors (Bandon)

Posting Standards

- ▣ A copy of permit must be posted on property with occupancy limits, local contact information, diagram of the premises with parking locations, trash pick-up and trash storage information (Durango)
- ▣ Same as above, but must be posted next to front door and include City contact information and max. number of vehicles. Quiet hours must also be posted (Lincoln City, Cannon Beach)
- ▣ Similar to above with addition of recycling information being posted (Manzanita)

Signage

- ❑ Limited to match home occupation rules. 2 sq. ft. max and no freestanding signs (Durango)
- ❑ Allows sign (72 - 90 sq. inches in size) identifying unit as short term rental with local contact number (Manzanita)
- ❑ Allow the same range of signage permitted in low density residential zones (Lincoln City)

Term of Licenses/Permits

- ❑ Permit void if payment of room tax ceases for a period of one year (Bandon, Manzanita)
- ❑ Permits are specific to the applicant/owner and are not transferable (Durango, Manzanita)
- ❑ Only property owners are eligible for permits (Manzanita).
- ❑ Vacation rental license requires annual renewal (Lincoln City)

Effect on Existing Rentals

- ❑ Subject to license, lodging tax, and location standards. Must apply for license within 120 days (Durango)
- ❑ Rendered non-conforming. Can rely on prior approval, but must obtain vacation rental license. Health and safety standards built into license. (Lincoln City)

Enforcement

- ▣ Initial contact is neighbors first point of contact for complaints/concerns (Cannon Beach, Lincoln City, Durango, Sonoma Co.)
- ▣ Owner must maintain complaint log (Lincoln City)
- ▣ Scaled penalties within 12 month period with warning, \$500 fine, suspension of permit, revocation (Durango). Two violation within 24 month period is warning, followed by scaled suspension of permit and revocation (Cannon Beach)
- ▣ Scaled monetary fine (\$500, \$1000, up to \$3000) (Manzanita)
- ▣ Fixed monetary fine (Lincoln City)
- ▣ Advertising vacation rental use is treated the same as actual use for purposes of a code violation (Lincoln City, Manzanita)

Process

- Over the counter (e.g. license) with ministerial review for compliance with clear and objective standards. Could include follow-up inspections (Manzanita)
- Staff level decision with notice to neighbors and opportunity to appeal to Planning Commission. Could include discretionary criteria (Lincoln City, Sisters)
- Planning Commission approval with public hearing (Bandon)
- Different levels of review depending upon location (Durango, Astoria)
- Different levels of review depending upon whether or not all of the fixed standards can be met. Discretionary criteria can be used for “alternate” review (Seaside, Sonoma Co.)

Other regulations

- ❑ In planned developments, consent from HOA required. If no HOA then consent is required from a majority of the owners (Durango)
- ❑ Consent required where joint driveway access or private beach access is to be used (Bandon)
- ❑ Allowance for hardship permit (in excess of cap) where owner demonstrates extraordinary financial burden necessitating rental (Manzanita)
- ❑ Room tax reporting and business license required in most of the sample ordinances

Next Steps

- Identify components that you would like to see worked into a draft proposal
- Determine the appropriate process to be used
- Staff can prepare a brief written explanation for each requirement that can be reviewed with the draft language

Where Should Vacation Rentals and B&Bs Be Allowed?

Proposal: Allow in all residential and commercial zones.

Other options:

- Select residential/commercial areas
- Commercial areas only
- Residential areas only
- Residential areas with density limitations
 - Ownership based (e.g. one license per owner)
 - Proximity based (e.g. require they be spaced a certain distance or limit percentage of homes in a certain area)
 - Ratio or hard cap (e.g. set a fixed number or percentage of residences in community as the max. number of licenses that would be issued)

Occupancy Limits

Proposal: Overnight occupancy limit of 2 persons per bedroom plus two. Subject to reduction based upon available off-street parking.

Maximum occupancy 1 person for every 200 square feet of floor area (fire code).

Other options:

- No limit on overnight occupancy
- Maximum overnight occupancy based exclusively on available off-street parking
- Overnight occupancy set on a per bedroom or sleeping area basis with no tie to availability of off-street parking
- Discretionary (e.g. compatible with the character of the area)

Off-Street Parking Standards

Proposal: One space per bedroom that is dedicated to a vacation rental or B&B use.

Other options:

- Same as single family dwelling (typically 2 spaces)
- Based upon occupancy (e.g. 1 space for every 3 occupants)
- Based upon size of home (e.g. 1 space for 2 bedroom home, 2 spaces for a 3-4 bedroom home, etc.)
- Discretionary standards (e.g. adequate site layout for transportation facilities)

Landscaping

Proposal: At least 50% of front yard and 40% of total area must be landscaped.

Other options:

- No landscaping requirements
- No change permitted to residential or outside appearance of home
- Restrict off-street parking in yards
- Discretionary standards (e.g. dwelling must be maintained at or above the level of surrounding dwellings)
- Target to residential areas only

Waste Management

Proposal: Weekly service required. Provisions must be made for regular trash removal from the premises. Use of dumpsters is prohibited. Provisions must be made for storage of receptacles so they cannot be viewed from the street.

Other options:

- Treat as single family residence (e.g. no waste management requirements)
- Eliminate one or more of the above requirements
- Require the use of secure containers
- Discretionary standards (e.g. No adverse impact on livability of the neighborhood)

Safety Issues

Proposal: Inspection by Building Official required prior to change of occupancy.

Must meet residential code and subject to periodic re-inspection.

Emergency information to be posted, and kit required for guests. Guest registry requirement.

Other options:

- Do not require one or more of the listed standards
- Require regular inspections (as opposed to periodic)
- Other safety issues not captured?

Issue Resolution

Proposal: License requirements to be posted on-site. Local contact must be available 24 hours a day and be able to respond, in person, within 30 minutes. Serves as initial point of contact for complaints and must maintain complaint log. Neighbors to be advised of local contact via notice when license is issued.

Other options:

- No requirement for local contact
- Require local contact or management company be within City limits
- Have local contact information on file with City (versus providing to neighbors with a notice)
- Provide alternate response times to those listed above

Enforcement

Proposal: Advertising for vacation rental or B&B use is the same as actual use. Failure of local contact to respond to complaints is a violation. If terms of license are not followed then penalty could lead to suspension or revocation of license (if multiple occurrences within 12 month period). If no license is obtained then penalty can be a fine of up to \$500 per occurrence and possible misdemeanor.

Other options:

- Focus on monetary penalties as opposed to non-monetary solutions
- Use of scaled fines
- Enforce only if actual use
- Have the City serve as the initial point of contact for addressing complaints and concerns

Permit Terms

Proposal: Licenses are specific to the owner of the structure, are not transferable, and automatically renew with the business license.

**No grandfathering of existing approvals.
Permit holders must obtain license within 120 days and may rely upon terms of existing approvals if they are more permissive than the license standards.**

Other options:

- Require annual renewals
- Allow licenses to transfer from owner to owner
- Authorize grandfathering of existing permits
- Allow an individual other than the owner to obtain a license

Process

Proposal: License issued over-the-counter if standards can be met. Site plan must be submitted and owner is responsible for obtaining address list for public notice. License issued once inspection is completed.

Conditional use option is available if all standards cannot be met.

Other options:

- Don't provide for discretionary review process (i.e. license standards must be met)
- Adopt discretionary criteria and a process where neighbors have an opportunity to weigh in before license is issued

Other Issues

- Tenancy Limits (i.e. frequency of rentals) – Some jurisdictions limit the number of rentals that can occur in a particular period of time. Not recommended with this proposal.
- Noise – No new standards are proposed. City would rely upon existing nuisance rules in its Municipal Code.
- Signage – Same as allowed for single family homes in residential zones.
- HOA Consent – Proposal includes notice to HOAs so that they are aware of when new licenses are issued. Some jurisdictions require HOA consent before license is issued.
- Room tax reporting and business license is required (no change from current rules)

9/12/11 Workshop
Vacation Rental Code Update

| COMMENT/QUESTION |
|--|
| Where Rentals Allowed/Occupancy: |
| For maximum occupancy - add "living space" (excludes stairwells, attics, hallways & garages). |
| Pre-existing nonconforming rentals - don't work under proposed changes (e.g. Occupancy per sq. footage differs from new 1 person per 200 sf fire code). |
| How do the nonconforming properties fit in? (20 x 17 (340 sf) sleeps two currently) (an owner who has substantially renovated is already at substantial cost (e.g. firewalls). |
| Maximum occupancy - 1 person for 200 sf of living space. |
| Maximum occupancy is too excessive! |
| Tenancy Limits - How to regulate number of uses versus number of occupants. |
| No rentals in R-1 or R-2. |
| B&Bs are really small hotels that offer rooms for just one night are are inappropriate in R-1 & R-2 zones. |
| B&Bs - current code of R-3 & R-4 should be sustained. Inappropriate use in residential areas of R-1 & R2. |
| One of the largest impacts of VRDs in residential neighborhoods is the moving in/moving out of the renters with each tenancy. A solution to this issue is tenancy limits. The City should limit VRD rentals to no more than one within 7 to 14 calendar days. |
| What makes you think that by opening up more areas to vacation rentals you won't be compounding the problem while either increasing, or at the very least, maintaining the same number of illegal establishments? |
| 2-4-11.025 (B) (Maximum building occupancy) - I have three homes side by side with a fourth on the same block. I have rented them together for family reunions or business meetings. Am I supposed to explain to my clients that they risk breaking the city law if they gather in too large a number? |
| Can "occupancy limits" as opposed to "tenancy limits" be imposed in R-1 and R-2 zones to limit the frequency of VRD operations? Suggest that it is appropriate for VRDs to combine the number of stays by true tenants and non-tenant "friends and relatives" in an occupancy total not to be exceeded over some time limit. |
| |
| Parking/Landscaping/Waste Management: |
| Trash weekly service (if not occupied?) If taken by cleaners? Without dumpster for condos (i.e. Embarcadero); visibility? |
| Landscaping - (enforcement - i.e. condos and/or CCR restrictions?) What if no room? |
| Off-street - what about Nye Beach & no off-street available on Bay Front? |
| Waste - What if no room to hide? (i.e. Agate Beach on cul-de-sac (2' on sides & front)) |
| Where did 40/ to 50/ come from? |
| What is 40/ of? (Total lot or all side or front?) |
| Landscaping on narrow lots that are already built (i.e. Nye Beach)? |
| What if no off-street parking? |
| Enforcement of off-street parking how do you tell? |
| What if neighbor's trash cans are visible? (Blending with neighborhood) |

9/12/11 Workshop
Vacation Rental Code Update

| COMMENT/QUESTION |
|---|
| What about if cans are out early? |
| Maybe go to a nuisance clause. |
| Parking 1 per unit? |
| Parking limits - in off-street parking (i.e. Nye Beach has limited parking). |
| 2-4-11.025 (C) (Parking) - My homes were built as vacation rentals, including land use and all necessary documents to establish them as such. One property has the original 1905 garage, which is too small for any vehicle. The other three homes have off-street parking. I was allowed to make use of the on-street parking, and I provided five off-street spaces. My homes are in Nye Beach, which allowed me to build with minimal setback. These homes were not required to have garages or street-side driveways. I cannot simply create space to meet these new requirements. I do not follow the thinking behind the inability to make use of street parking over night. There is no such provision for residents of the community. I pay transient room taxes and property taxes; doesn't that buy me any rights? |
| 2-4-11.025 (D) (Waste Management) - I own four homes on the same block where the minimum stay is two nights. Each home is provided with a garbage can and recycling container. I pick these up daily and dump them into a dumpster rented from Thompson's, which is in a place where their truck required me to place it so they could empty it. Without this dumpster I would have to either contract with Thompson's for a daily pickup of four cans, or haul the garbage to the dump on a daily basis myself, or collect it in another building somewhere until collection day. If you have a problem with unmaintained or unsupervised dumpsters, then deal with it on that basis. |
| Does the statement, "designated parking spaces shall be accessible" mean handicapped accessible? If so, if the VR is not handicapped accessible, why provide a space for handicapped parking? |
| |
| Safety Issues: |
| Rentals may add to "safety" versus "empty" properties. |
| Life, safety issues versus too much information required (e.g. Name, contact & vehicle for every guest). |
| Is the Fire Marshal to set inspection standards & requirements? |
| How often is the periodic inspection? Cost? |
| 2-4-11.030 (Inspections) - I have a problem with the term "Designee". Who is this person; how did they get the job? What is their background; what building or business background do they bring? What hidden agendas or vendettas will they exercise? Who does an owner appeal to and at what cost in both time and money? |
| Regarding emergency provisions, specifics should be determined now; not later. |
| An alternate location for postings would be more friendly. Vacationers choose to stay in VRs specifically because they are not hotels. To post on the wall is so hotel-like and not at all homey. We provide all this information (and more, such as recommendations of local businesses, etc.) in a binder on the kitchen counter. |
| Regarding inspections, a reasonable time should be allowed to correct identified deficiencies; as an already established VR will have existing reservations that must be honored. To cancel those reservations while the deficiencies are corrected would be a hardship on the VR owner and a great inconvenience to the vacationers. |

9/12/11 Workshop
Vacation Rental Code Update

| COMMENT/QUESTION |
|---|
| Issue Resolution/Enforcement: |
| Need to decide what are law enforcement issues versus management issues. |
| How do you deal with baseless complaints? (i.e. loss of license w/no recourse?) |
| Matrix of penalty levels? Seriousness? |
| Should City invest time & money in a system of tracking enforcement? |
| Fees & penalties should be reasonable (define reasonable). |
| Don't need two licenses - only one license with an endorsement. |
| 30 minute response - take out "personal" or make phone call OK. |
| Complaint Log - suggest not require. |
| Check & coordinate with County rules regarding inspections & licensing (e.g. Hotel/motel, B&B license thru County). |
| Enforce guest registry. |
| Don't issue licenses - issue permits. |
| Local contact "within city limits" - why? |
| Define "multiple occurrences". |
| What does "actual use" mean? |
| Advertising - meet requirements and standards of the license. |
| 2-4-11.025 (F) (Guest Register) - This is just unnecessary! There is no substitute for responsible management. Irresponsible clients catch us all off guard as owners; but we learn and adapt or we go out of business. It would not be sound business practice to have your home trashed on a regular basis. You are punishing indiscriminately for the irresponsible few. |
| What is the purpose of the contact information? Vehicle license plate numbers are not easily obtained as many guests arrive by air to Oregon and rent a car. Requiring the vacationer to call that information in to the VR owner is unfriendly. |
| The general consensus showed a desire for fairness and equity. If the City has VR rules, they should be met by all parties; not just agents and enrollees we know about at this time. Additionally, if there are regulations, there should be a method of enforcement. |
| As to a contact person, leaving it up to the VR owner to identify the contact and be responsible for action without further specification was best, with the owner also to decide when, or if, to include the police. |
| It was generally agreed that standards set by the fire marshal should be met with onus on the VR owner for compliance. |
| It seemed to be a general theme that "less is better" and following the KISS method pays benefits. A system needs to be easily understood and followed if it is to be effective. |

9/12/11 Workshop
Vacation Rental Code Update

| COMMENT/QUESTION |
|---|
| It was the general opinion that any VR being advertised should be required to meet all the regulations even if it is not being actively rented. This would help insure that all rentals meet the basic requirements for safety, etc. Apparently, VR tenants do not have the same protections and legal resources as long-term tenants, hence the importance of sanitation and safety rules. |
| The big questions of fines/penalties and actual enforcement raise their heads. If negative or punitive action is being proposed against a VR property, the owner would need to be offered some system of hearings. How these would best be done and where the dollar costs for such things would come from needs to be decided. |
| Developing a system to identify and bring vacation rentals "into the fold" is essential for such a system to succeed. The City also needs to avoid the risk of requiring higher standards for vacation rentals than it does for long-term rentals. |
| Permit Terms/Process: |
| Build in a review process to evaluate how the new ordinances are working. |
| The right goes to the property, not the owner? |
| 2-4-11.025 (F) "This information <i>shall</i> ^A be made available to the <i>city</i> ^B upon request". (^A Why? Who? Restate: IN CASE OF EMERGENCY ^B ANY INFORMATION PROVIDED TO THE CITY BECOMES PUBLIC RECORD) |
| 2-4-11.025 (H) "Owner or designee shall provide information and <i>equipment</i> ^A ^A DEFINE EQUIPMENT. *WHAT IS THE CITY'S PROTOCOL FOR EMERGENCY DISASTER, ETC. WHEN CONTACT (OR OWNER) IS UNAVAILABLE? |
| I assume the existing permit will be renewed unless evidence to the contrary (grandfathering - with conditions)? |
| Favor "grandfathering" of existing VRDs, as opposed to a "new start" for all. |
| Favor "permitting" of VRDs to stay with the property as opposed to "licensing" of VRD owner. |
| How will this new proposal operate for VRBOs that are managed by property management companies who assume essentially all responsibility for the property? Would the owner still need a business license or would they operate under the property management license? With the inspection complete, would this be a "once only" or will the license/permit require "frequent renewal" or renewal only with "change of ownership"? |
| OTHER ISSUES: |
| Likes new guidelines - more clear. (e.g. definition of "occurrence" - previous definitions were not clear. |
| Likes new regulations. |
| Don't impose "higher standards" than what currently exist with motel/hotel use, etc. |
| HOA "notification" vs. "consent" (City cannot enforce CC&Rs - notice to HOA upon application?) |
| Does banquet room meet the same requirements for square footage? Need better explanation. |
| Do unattached houses have the same classification as a hotel that operate it - are they vacation rentals or extensions of hotel? |

9/12/11 Workshop
Vacation Rental Code Update

| COMMENT/QUESTION |
|---|
| 2-4-11.005 - If the City is going to place rules on vacation rentals & B&Bs, why not apartment buildings as well. Quite a few exhibit gross waste refuse problems, parking and abandoned vehicle problems. |
| 2-4-11.010 (B) - Because my vacation rental property is an investment property, the value will be directly related to its use. The provision that the vacation rental use could end with sale of the property, would make it harder to sell if the next owner fails to meet your requirements. |
| 2-4-11.010 (E) - "a land use approval authorizing..." - the wordage sounds like I am surrendering the rights I pursued by receiving land use approvals for my vacation rentals by receiving a permit from the city, but the city is requiring that I get this permit. |
| 2-4-11.015 (A) (Approval Authority) - Having a single individual in charge of the determination of compliance and subsequently forcing the property owner to enter into a costly and time-consuming appeals process based on the determination of a single individual who is not elected or subject to public review is counter productive to vacation rentals as a business entity. |
| 2-4-11.050 (Penalties) - You are punishing the responsible for the actions of the irresponsible. |
| What makes you think those that are currently operating illegally and managing to evade paying the taxes and permits required will suddenly change their approach? |
| Have you given any thought to the implications of how the owners of primary residences are going to react when they discover that you are now going to permit outright use of the homes they thought were permanent residencies or perhaps occasionally used vacation rentals or second homes are now being marketed as vacation rentals primarily by unprepared owner-managers or by management companies simply interested in increasing their inventory? |
| Why would a management company care one way or another if the home gets abused during periods of special events? |
| If the owner is in charge and located elsewhere how are they to know and respond in a timely manner? |
| As far as clients go, people are human. Those that live by the rules will live by them whether they exist in a written form or not. Those that play by a different standard will take every opportunity to do so. For the most part, perhaps 98% of my clients show respect for my properties. |
| An absentee landlord-manager or a less than perfect management firm will not have any or all of the qualities I do operating my own properties. What is the motivation. |
| I think the City's money will be better served by figuring out how to manage and regulate those establishments that exist legally or otherwise at this point in time. |
| Thank you for wanting to make Government better. Yes there are too many regulations & it is confusing. Please reduce costs as the rest of us are. Please make it easier to make a business. |

CITY OF NEWPORT VACATION RENTAL CODE UPDATE

Options for Addressing
September 2011
Open House Comments

October 12, 2011
Work Group Meeting

Maximum Occupancy

ISSUE

- ❑ Concern that proposed 200 sq. ft. occupancy limit is excessive

OPTIONS

- ❑ Include requirement so that owners are aware of limit.
- ❑ Do not call out limitation in the vacation rental code (will still be in Fire Code).

-
- ❑ 200 sq. ft. of gross floor area per person limit is a function of the existing fire code (i.e. it is already a city standard).
 - ❑ Life safety standard.
 - ❑ Fire Department will enforce on a complaint basis.
 - ❑ Public spaces, such as the Council Chambers, have a larger limit because of enhanced emergency egress (larger aisle widths, double doors equipped with panic bars, etc.)

Tenancy Limits

ISSUE

- Frequent move in/move out is disruptive. Interested in seeing tenancy limit imposed in R-1 and R-2 zones.

OPTIONS

- Impose tenancy limits in all zones.
- Impose tenancy limits in select zones, such as the R-1 and R-2.
- Do not impose tenancy limits.

-
- Work group considered tenancy limits with initial draft.
 - Cannon Beach limits rentals to 1 tenancy every 14 days, Durango 1 tenancy every 7 days.
 - Enforced through guest registry. May necessitate active oversight.

Locations Allowed?

ISSUE

- ❑ Desire to see Bed and Breakfast uses prohibited in R-1 and R-2
- ❑ Interest in seeing no rentals in R-1 and R-2

OPTIONS

- ❑ Further restrict where Bed and Breakfast and/or vacation rental uses are allowed.
- ❑ Do not restrict these uses in residential zones

-
- ❑ Bed and Breakfast Uses are not currently allowed in R-1 and R-2 zones. They are allowed conditionally in R-3 and R-4 zones.
 - ❑ Vacation rentals are allowed outright in all residential zones subject to not more than 10 occurrences in a year.
 - ❑ Jurisdictions that limit uses, by zone (e.g. Bandon), tailored the boundaries of zoning districts to correspond with likely uses (something Newport has not done).

Off-street Parking Requirements

- What about Nye Beach and other areas where no off-street parking is available?
- How will off-street parking be enforced?
- Why can't on-street spaces be used for overnight occupancy?
- Accessible = handicapped accessible?

OPTIONS

- Revise to focus on provision of off-street spaces only (i.e. drop restriction on use of on-street spaces).
- Make only minor clarifications (e.g. accessibility standard)
- Do not make adjustments..

-
- Current proposal provides a conditional use process for applications that cannot satisfy all of the standards (such as off-street parking). Is that adequate?
 - Prohibition of use of on-street parking spaces by guests would be difficult to enforce.
 - Accessibility standard may need to be clarified (not intended to be handicapped spaces).

Waste Disposal

QUESTIONS

- Why restrict dumpsters?
- Weekly service if not occupied? Alternative?
- Why conceal?

OPTIONS

- Make targeted or wholesale adjustments to waste disposal standards.
- Distinguish by zone or use (e.g. B&B vs. vacation rental)?
- Do not make adjustments.

-
- Concern with dumpsters was that they are out of character with residential areas, and encourage intensive use. Not all rentals or B&B's are in residential areas.
 - Existing proposal requires weekly waste disposal service during all months the dwelling is available.
 - Should consider enforcement. Is advertised easier to enforce than occupancy in terms of waste service being provided.
 - Is concealment requirement equitable?

Safety Issues

OPTIONS

- Frequency of inspections?
Cost? Timing for corrective action?
- Required emergency provisions should be spelled out.
- Qualifications of Building Official designee?
- Shouldn't have to post next to door like a hotel/motel.
- Make targeted adjustments to be more specific about requirements and qualifications.
- Make limited adjustments (maintains flexibility)
- Provide Commission with thoughts on cost.

-
- Frequency of re-inspections, and qualifications of designee were not spelled out because the City may need flexibility in administering the program. Is this appropriate?
 - Prohibiting rental until corrective action is taken is a strong tool for ensuring that work is completed in a timely manner, and that persons occupying the residence are not at risk.
 - Emergency information / equipment, spell out or give the Council authority to adopt at a later date?

Guest registry

ISSUE

- ❑ Unnecessary.
- ❑ What is the right balance of required info?
- ❑ How will registry requirement be enforced?

OPTIONS

- ❑ Adjust the types of information to be collected.
- ❑ Eliminate requirement.
- ❑ Do not make adjustments.

-
- ❑ The rationale for a guest registry is that it provides critical information for emergency responders in the event of a disaster. It also serves as a tool for enforcement of overnight occupancy / parking standards. Is this justification for the requirement?
 - ❑ Hotels/motels collect information about the number of occupants, and specifics about the primary tenant and vehicles. Does the proposed language require the same?

Issue Resolution

ISSUE

- ❑ Complaint log, suggest not require.
- ❑ Clarify 30 minute response.
- ❑ Identifying local contact should be sufficient.

OPTIONS

- ❑ Make targeted adjustments with focus on the operator as the primary contact.
- ❑ Do not make adjustments.

-
- ❑ Complaint log requirement serves as an enforcement tool, since the City is not the primary contact. Is that justification?
 - ❑ A response in 30 minutes. Is it needed, or is a phone call adequate?
 - ❑ The limits imposed on the local contact are intended to ensure that they are responsive. Is that appropriate, or needed?

Enforcement

ISSUE

- ▣ How to address baseless complaints.
- ▣ Matrix of penalty levels? Seriousness?
- ▣ Appeals process?

OPTIONS

- ▣ Make targeted adjustments to the violations and penalties sections.
- ▣ Share with Commission thoughts on appeals options.
- ▣ Do not make adjustments.

-
- ▣ A citation can be challenged in Municipal Court. That is the appeals process. It may be that another option may be appropriate, such as the City Manager having the option of making adjustments. This is an issue that is relevant to any enforcement issue, not just vacation rentals.

Permit Terms/Process

- ❑ Right should go with property not the owner.
- ❑ Favors grandfathering.
- ❑ Don't require two licenses.
- ❑ Property managers or owners required to obtain license?
- ❑ Build in a check-in to evaluate new process.

OPTIONS

- ❑ Consider whether or not grandfathering, permit transfer, or check-in process should be worked into the proposed code.
- ❑ Clarify multiple license issue (e.g. endorsement)
- ❑ Do not make adjustments.

-
- ❑ Rights are specific to owner to ensure that new owners are aware of limitations (this has been a problem in the past). Is this adequate justification?
 - ❑ Grandfathering was not included because of long term implications it has in terms of fairness, cost to administer and complexity of the rules. Current proposal allows current owner to effectively grandfather for the period that they have a license. Is that adequate?

Motel vs Vacation Rental

DEFINITIONS (SHOULD NEWPORT DEFINITION BE ADJUSTED)

- Motel. A building or group of buildings in which lodging is provided for guests for compensation, containing guest units with separate entrances from the building exterior, with or without cooking facilities, and where more than 40 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days (Newport)
- Motel means one or more buildings designed or used by temporary occupants. (Lincoln City)
- A building in which lodging is provided for guests for compensation. (Astoria)
- “Motel or other tourist accommodation” means a structure or part of a structure, containing motel rental units, occupied or designed for occupancy by transients for lodging or sleeping and including the terms “hotel” and “inn,” but shall not include the term “bed and breakfast establishment” or the transient occupancy of a dwelling unit regulated by this chapter. (Cannon Beach)
- Motel rental unit” means one bathroom and not more than three bedrooms. A “bathroom” is defined as consisting, at a minimum, of a toilet. (Cannon Beach)
- Not defined. (Bandon, Seaside)

Legend

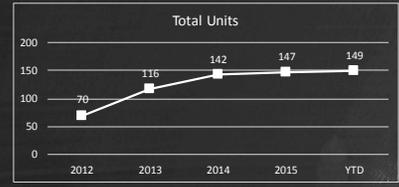
Number of Units

- ★ 1 Unit
- ★ 1-5 Units
- ★ More than 5 Units

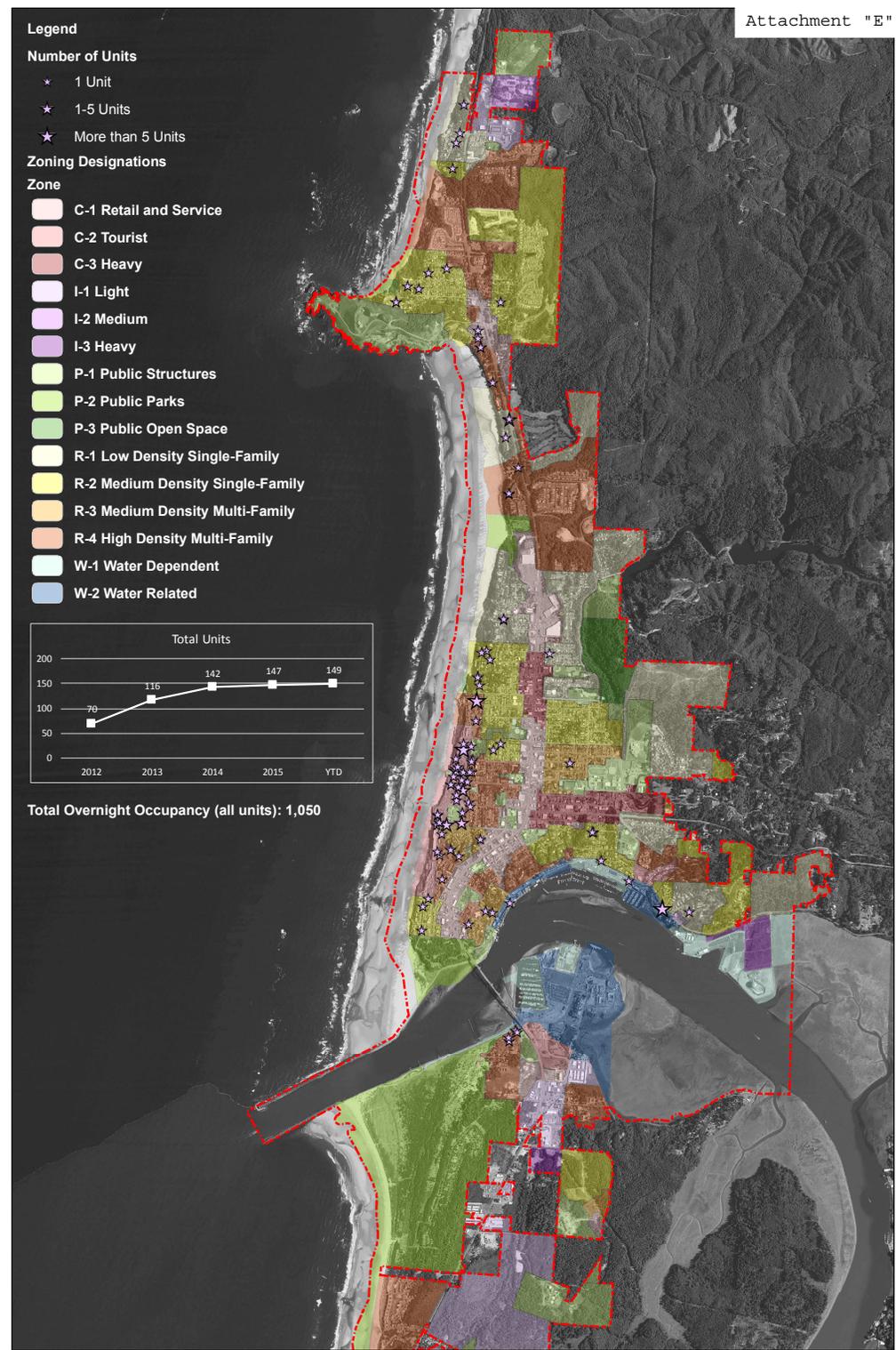
Zoning Designations

Zone

- C-1 Retail and Service
- C-2 Tourist
- C-3 Heavy
- I-1 Light
- I-2 Medium
- I-3 Heavy
- P-1 Public Structures
- P-2 Public Parks
- P-3 Public Open Space
- R-1 Low Density Single-Family
- R-2 Medium Density Single-Family
- R-3 Medium Density Multi-Family
- R-4 High Density Multi-Family
- W-1 Water Dependent
- W-2 Water Related



Total Overnight Occupancy (all units): 1,050



Derrick Tokos

From: Lee Hardy <lee@yaquinabayproperties.com>
Sent: Friday, April 22, 2016 5:00 PM
To: Derrick Tokos
Subject: RE: Vacation Rentals in Newport

Hi Derek,

I was asked that kind of question by someone else today, coincidentally. I did see the article. In my experience, I do not think I have ever had a client who had a long term rental switch the property to vacation rental use, especially not recently. Someone said Dolphin Real Estate said the same thing when asked the same question.

I do recall that when we were working on the vacation rental ordinance and somewhat since then, I received maybe a total of six letters from Vacasa soliciting me to convert my home to a vacation rental. ☺ Like where would I live then??

The Vacasa letter was very clear in their representation of the annual income one could expect from a vacation rental. They said a "normal house in town" could expect to gross around \$60,000.00 per year as a vacation rental and that an oceanfront house could expect to gross at least \$100,000.00 per year. I found that to be pretty amazing and suspect that it is not likely true in terms of property owners' typical experience. But maybe some of the public actually believed that. The fact that this solicitation went on for a bit more than a year tells me that the company was seeking a large expansion of their inventory. Take a look at their website sometime. You might detect some interesting anomalies. Don't know about the bookkeeping expertise, but I once got the impression they might be charging room tax on cleaning fees. I know we talked about that issue in the committee.

The real pressures on rental property inventory are a bit more complicated. Many properties that became rentals when the owners could not sell them a few years ago are now being sold and are no longer rentals. Some property owners are actually fulfilling their dreams and retiring here after purchasing property in the past to use as rentals in the meantime while waiting for retirement.

It is worthy to note that, as long as rental owners continue to be hamstrung in terms of exercising their property rights, it will discourage folks from making investments in rental properties. I am referring to the now extended no-cause eviction notice times and the extended notices of rent increases. It is also no longer possible to fully enforce fixed term leases in this state if a tenant moves out several months prior to the term of the lease. This does not encourage people to invest in long term rental property.

Lee Hardy

From: Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]
Sent: Friday, April 22, 2016 4:42 PM
To: Lee Hardy
Subject: Vacation Rentals in Newport

Hi Lee,

You may have seen in the newspaper that this was a topic of discussion at our last City Council meeting. I am preparing a memo to our Council that speaks to how our vacation rental licensing program has been working since the City overhauled its vacation rental codes in 2012.

Would you be willing to put together a brief email that I could include in the Council packet addressing, from a rental management perspective, how the desire for vacation rentals is influencing people's choices to make their properties

available as month-to-month rentals or the conversion of month-to-month rentals to vacation rentals? If you don't see this as a significant factor, that would be relevant information for the Council too.

Any other observations you would like to share would be welcome as well.

Thanks for any assistance you can provide.

Derrick I. Tokos, AICP

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

Derrick Tokos

From: Derrick Tokos
Sent: Thursday, April 28, 2016 9:23 AM
To: Steven Rich
Subject: RE: Applicability of Moratorium Statutes to Vacation Rentals

Thanks Steve,

I'll include this summary with the report I am preparing.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Steven Rich
Sent: Wednesday, April 27, 2016 10:22 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: RE: Applicability of Moratorium Statutes to Vacation Rentals

We discussed this matter this morning and I note the following regarding Meas.49 and the a Moratorium addressing vacation rentals.

Measure 49 addresses land use regulations [as defined in the statute] that “restricts the residential use of private property” zoned for residential use. It allows for a party who has been damaged to recover for the loss of FMV to their real property [of course there are exemptions – ORS 195.305(3)]. The claimant has the “burden of proof” and must submit an appraisal in support of their claim. An important qualifier is that the FMV does NOT include “prospective value” or “speculative value” or “possible value based upon future expenditures and improvements.” ORS 195.332

Moratorium under 197.520:

We can argue about whether the moratorium proposed by Councilor Engler would be covered by the “construction or land development” requirement, but for our immediate purposes we assume it will. A moratorium would require: 45 day notice to DLCD, findings justifying the need for a moratorium; and public hearing on the declaration of the moratorium and the findings supporting same. The contents of the findings are addressed quite specifically, and require a showing of, among other things that there is a compelling need, that irrevocable public harm is possible and that other methods to achieve the objective are unsatisfactory. The initial duration is limited to 120 days. That time period can be extended with additional findings and another public hearing.

Obviously, this is not an exhaustive treatment of either subject; but they are my initial thoughts on the matters.

Steven E. Rich

City Attorney
169 SW Coast Highway
Newport, OR 97365
541-574-0607
s.rich@newportoregon.gov



NOTICE OF CONFIDENTIAL COMMUNICATIONS: This email, including any attachment, may contain confidential and privileged communications protected by law under ORS 40.225 and by Attorney-Client privilege. If you receive this email in error, or are not the intended recipient, please notify the sender immediately and permanently delete the entire message without copying or disclosing the contents.

From: Derrick Tokos
Sent: Friday, April 22, 2016 2:45 PM
To: Steven Rich <S.Rich@NewportOregon.gov>
Cc: Spencer Nebel <S.Nebel@NewportOregon.gov>
Subject: Applicability of Moratorium Statutes to Vacation Rentals

Hi Steve,

I am putting together a memo for the next City Council meeting regarding the vacation rental issues raised by Councilor Engler and discussed at the last City Council meeting. One of the topics has to do with the City's authority to impose a moratorium on authorizing new vacation rentals. Presumably, this would include the conversion of existing dwelling units to vacation rentals and the construction of new dwelling units that are to be used for vacation rental purposes.

Standards for vacation rentals are contained in our land use code and they are implemented in a ministerial manner as an endorsement to a business license (NMC Chapter 14.25).

ORS Chapter 197.505 to 197.540 sets out rules local governments must follow when imposing a moratorium on construction or development. Could you speak to whether or not these would apply to the subject circumstances? Also, in your view, are there any Measure 49 property compensation issues at play if such a prohibition were to be put in place?

Thanks for any assistance and/or insights you can provide.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

Derrick Tokos

From: Chantelle Charpentier <chantellec@vacasa.com>
Sent: Friday, April 29, 2016 3:34 PM
To: Derrick Tokos
Subject: Vacasa Newport Vacation Rental Information

Hello Derrick,

Thank you for the opportunity to address the questions regarding vacation rentals in Newport.

Please allow me to state that I can answer based only on the homes managed by Vacasa. There are many homes that are owner managed or managed by other vacation rental companies.

A question was posed regarding whether vacation homes take away from housing for workers.

- Although the answer may be yes in some rare occasions, typically, the homes that we manage are second homes that would otherwise sit empty.
- Most of the homes belong to families who want to be able to earn income from them but also want to use them for themselves.
- Many of the homes managed by Vacasa would not be affordable as working class housing, even if the owners were willing to give up their own time at the homes.

Another question was posed regarding what vacation rentals offer to the community:

- In 2015, Vacasa homes in Newport hosted 2,662 reservations, and brought 12,551 guests to shop in Newport stores, eat in Newport restaurants, and visit the Newport Aquarium and other local attractions.
- While it is not possible to determine exactly how much tax revenue was generated by these guests, we can say it was substantial and that it contributed to the community.
- Vacasa is an active member of the Newport Community, including the Newport Chamber of Commerce.
- Vacasa donates to local non-profits and also offers scholarships in photography and writing to any high school student who attends school in an area where we manage homes.
- Vacasa employs both full time and seasonal workers for Newport. Vacasa employees begin with a wage of \$15 per hour, and full time employees receive benefits.

There was also a request to address how we handle questions and concerns from neighboring homeowners and others in the community.

- Vacasa has a "good neighbor" policy. What that means is that we understand that not everyone is on vacation. Most of us are working, often in the hospitality industry, and need our space and rest.
- With that in mind, we have three Local Operations Managers assigned to Newport homes. Each Local Operations Manager is responsible not only for guest comfort and care of homes, but also responsible for ensuring that any concern brought to their attention is handled quickly.
- Every Vacasa home is inspected and licensed by the City of Newport. Vacasa is committed to being in good standing with local government wherever we manage homes.

I would be happy to answer any other questions that the City Council may have, now or in the future.

Sincerely,

--

Chantelle Charpentier
Vacasa Business Development Representative
Central Oregon Coast Region
chantellec@vacasa.com
541 305-5001

Derrick Tokos

From: Beth Goodman <goodman@econw.com>
Sent: Friday, April 29, 2016 9:58 AM
To: Bob Parker; Derrick Tokos
Subject: Newport seasonal units
Attachments: vacancy.xlsx

Derrick -

I think you were looking for data about seasonal rental units from the Census.

See the attached document for 2014 data and 2010 data. In short, dwelling units that are vacant for seasonal, recreational, or occasional use (this type of vacancy is where second homes and short-term rentals are counted) accounts for 12.3% of Newport's housing stock in 2014. That's lower than the average of 25% in Lincoln County and higher than the State average of 3.5% of housing.

Is this what you're looking for?

Beth

Beth Goodman
Senior Planner

ECONorthwest
222 SW Columbia, Suite 1600, Portland, OR 97201
Direct 541.505.7203 | goodman@econw.com | econw.com

Portland | Seattle | Eugene | Boise

On 4/28/16 2:15 PM, Bob Parker wrote:

Hi Derrick -

Got your v-mail. Beth says the ACS data do exist and she'll send you data/links tomorrow when she's back in the office.

-Bob

Bob Parker, AICP
Project Director

ECONorthwest
222 SW Columbia, Suite 1600, Portland, OR 97201
Direct 541.554.1509 | parker@econw.com | econw.com

Portland | Seattle | Eugene | Boise

H1
HOUSING UNITS
Universe: Housing units

2010 Census Summary File 1

| | Oregon | Lincoln County, Oregon | Lincoln City city, Oregon | Newport city, Oregon |
|-------|-----------|------------------------|---------------------------|----------------------|
| Total | 1,675,562 | 30,610 | 6,025 | 5,540 |

H5
VACANCY STATUS

Universe: Vacant housing units

2010 Census Summary File 1

| | Oregon | Lincoln County, Oregon | Lincoln City city, Oregon | Newport city, Oregon |
|---|---------|------------------------|---------------------------|----------------------|
| Total: | 156,624 | 10,060 | 2,380 | 1,186 |
| For rent | 40,193 | 953 | 273 | 200 |
| Rented, not occupied | 2,608 | 45 | 8 | 9 |
| For sale only | 24,191 | 668 | 167 | 129 |
| Sold, not occupied | 4,401 | 80 | 21 | 19 |
| For seasonal, recreational, or occasional use | 55,473 | 7,674 | 1,775 | 766 |
| For migrant workers | 461 | 0 | 0 | 0 |
| Other vacant | 29,297 | 640 | 136 | 63 |

Source: U.S. Census Bureau, 2010 Census.

Second homes and short-term rentals

Percent of total housing stock

| | Oregon | Lincoln County, Oregon | Lincoln City city, Oregon | Newport city, Oregon |
|--------------------------------|--------|------------------------|---------------------------|----------------------|
| Percent of total housing stock | 3.3% | 25.1% | 29.5% | 13.8% |

**B25001
HOUSING UNITS**

U.S. Housing Units

2010-2014 American Community Survey 5-Year Estimates

| | Lincoln County, Or Lincoln City city, Oregon | Newport city, Oregon |
|----------|--|----------------------|
| Estimate | Estimate | Estimate |
| Total | 1,885,814 +/-334 | 30,656 +/-102 |
| | Margin of Error | Margin of Error |
| | 5,561 +/-311 | 5,693 +/-236 |
| | | Margin of Error |

B25004

VACANCY STATUS

Universe: Vacant Housing Units

2010-2014 American Community Survey 5-Year Estimates

| | Oregon | Lincoln County, Oregon | Lincoln City city, Oregon | Newport city, Oregon |
|---|------------------|------------------------|---------------------------|----------------------|
| Estimate | Estimate | Estimate | Estimate | Estimate |
| Total: | 162,826 +/-4,032 | 9,984 +/-452 | 2,015 +/-281 | 1,123 +/-181 |
| For rent | 28,413 +/-1,689 | 662 +/-179 | 89 +/-91 | 192 +/-110 |
| Rented, not occupied | 7,427 +/-791 | 174 +/-106 | 29 +/-43 | 33 +/-51 |
| For sale only | 18,316 +/-1,361 | 567 +/-178 | 51 +/-52 | 112 +/-80 |
| Sold, not occupied | 5,910 +/-697 | 53 +/-21 | 12 +/-21 | 13 +/-21 |
| For seasonal, recreational, or occasional use | 59,466 +/-1,661 | 7,779 +/-469 | 1,607 +/-295 | 698 +/-147 |
| For migrant workers | 646 +/-185 | 4 +/-7 | 0 +/-17 | 0 +/-19 |
| Other vacant | 42,648 +/-2,008 | 745 +/-169 | 227 +/-141 | 75 +/-66 |

Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates

Second homes and short-term rentals

| | Oregon | Lincoln County | Lincoln City | Newport |
|--------------------------------|--------|----------------|--------------|---------|
| Percent of total housing stock | 3.5% | 25.4% | 28.8% | 12.3% |



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, May 09, 2016 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A. Approval of the Planning Commission regular session meeting minutes of April 11, 2016.

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

6. NEW BUSINESS

6.A. Appointments to fill the vacancies on the Planning Commission's Citizen Advisory Committee.

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, April 11, 2016

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

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

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, Croteau, Patrick, and Franklin were present. Berman and Branigan joined the meeting at 7:01 p.m.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of March 28, 2016.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin, to approve the Planning Commission regular session meeting minutes as presented with a couple of minor typographical corrections. The motion carried unanimously in a voice vote.

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

Commissioners Branigan and Berman joined the meeting at this point.

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

5. **Public Hearings.**

A. **File No. 2-CUP-16:** A request submitted by Oregon Bud Company (Courtney Davis, authorized representative) per Section 14.03.080/“Water-Dependent and Water-Related Uses” of the Newport Zoning Ordinance, for approval of a conditional use permit in order to allow special retail use of approximately 984 square feet of an existing waterfront building for a medical or recreational marijuana dispensary at 837 SW Bay Blvd (Assessor’s Map 11-11-08-CA, Tax Lot 02201). The subject property is located in a W-2 “Water-Related” zone, where uses permitted outright in a C-2 zone are allowed following the issuance of a conditional use permit.

Chair Patrick opened the public hearing for File No. 2-CUP-16 at 7:02 p.m. by reading the statement of rights and relevance and reading the summary of the file from the agenda. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits; and only site visits were declared. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard. He called for the staff report. Tokos explained that before the Commissioners was a conditional use permit application to allow just under 1,000 square feet of an existing waterfront building to be used for a medical and recreational marijuana dispensary. This is the location that was formerly occupied by the Noodle Café. The property was approved for a restaurant use in 1995 along with the seafood market. T

Tokos noted that the conditional use criteria are set forth in Section 14.34.050 of the code. He said that there are four criteria that are relevant, and he read them verbatim. First is that the public facilities can adequately accommodate the proposed use. Second, that the request complies with the requirements of the underlying zone or overlay zone. Third, the proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval. Fourth, a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Tokos noted that the applicant filed their application on February 29th. A copy of the applicant’s written narrative, site plans, and other

relevant information were included in the Commissioners' packets along with the staff report with findings of fact in detail.

Touching on the staff report, Tokos noted that, with respect to the first standard, the property is located on Bay Boulevard where there are existing utilities in place serving the area. The property is right on a fully-developed public street with sidewalk. Given that fact, the public facilities are clearly adequate to serve the proposed use; and there is ample evidence in the record to support that. Regarding the second criterion, there are no specific zones other than the Bay Front Plan that is in place and looks to ensure that the historic character of the waterfront community is maintained. The applicant is not proposing to make any changes to the exterior of the building. Provided that the Commission is comfortable with the existing building which is more or less on par with the historical character down there, Tokos believes there is ample evidence to find that this standard has been met. The third criterion deals with the proposal not having an adverse impact greater than existing uses on nearby properties or if so, that they can be ameliorated with imposition of conditions of approval. Tokos noted that in the packet was a letter from the Police Department saying this particular location is at the 1,000-foot mark from the other marijuana dispensary at 452 SW Bay Blvd. The 1,000-foot requirement is contained in the business license code. It requires that retail marijuana dispensaries be spaced at least 1,000 feet apart to avoid the concentration of dispensaries in any area. It was put in place out of a concern that concentration of marijuana dispensaries could have an adverse impact on tourist-related areas such as the Bay Front and Nye Beach. He said that's not a land use code per se. He noted that, as he outlined in the staff report, one approach the Commission could take is that the 1,000-foot separation requirement is not material to what the Commission has before it tonight. In that case, you're done with it. He said another approach is that the Commission can say this concentration issue is something that's relevant to ensuring that there's not an adverse impact because of this undue concentration concern. He said, if you go down that path, then the question turns to if this establishment is at least 1,000 feet away from the other one. The applicant indicates that they believe their building is 1,014 feet from the business at 452 SW Bay Blvd. Tokos measured it on the GIS system, which indicated a distance of 1,015 feet; but that's not survey accurate. He said he can't say with confidence if it's over 1,000 feet or not; but he thinks it's very close. Tokos noted that the Commission can accept the applicant's statement in conjunction with the map he included in the packet as evidence it's over 1,000 feet, and that would address this issue; or the Commissioners could indicate that the applicant should survey that dimension. The definition in the business license code is that within 1,000 feet means a straight line measurement from the edge of the building in which the applicant wants to establish the dispensary to the closest point of the property upon which the other dispensary is located.

Tokos said basically the Commission has three different options, so he provided that in three different sets of findings and final orders with an option to go whichever way the Commission feels is appropriate in this case. Tokos thought any of the three directions outlined are reasonable approaches. He said there's also the opportunity to provide some policy guidance; what is the 1,000 feet, and if it's really close, is a survey warranted. He said there was also one condition that he thought the Commission wants to look at clearly. This particular building extends out over the Bay, and by virtue of that it's subject to a land lease from the Department of State Lands as are any of those properties. He said there's nothing in the record that indicates that the Department of State Lands finds this use acceptable per their lease. He's not sure if their lease would extend to this use. That's something the applicant can provide. He thought that condition that's proposed would be prudent to impose should the Commission choose to approve this conditional use permit.

The last criterion relates to building modifications being consistent with the area. The applicant hasn't proposed any changes to the exterior of the building outside some modifications to signage; and there doesn't appear to be any major modifications in terms of the type of material used. He thought it was reasonable for the Commission to conclude that how they're proposing to adjust the signage is consistent with what has been done down on the Bay Front and is not out of character with the neighborhood.

Franklin said looking at Attachment "E" it looks like the distance between the two dispensaries goes to the corner of the old fish market when it should be actually further. He wondered if when you say 1,000 feet is it the building the dispensary is in including all storefronts, or just theirs. Tokos said the point of measurement starts at the edge of the building. If it's a larger parcel with multiple tenants, you measure to the closest point of the parcel even if the tenant is further back. That's how the definition was drafted. Patrick asked if the GIS says it's 1,015 feet. Tokos said yes, but it's not a survey. Berman asked if Tokos had any idea what the cost of a survey would be. Tokos said it varies. This would be just a point to point survey, so he would guess in the ballpark of \$1,000. Branigan asked if there has been any action on any of those properties on the Bay Front from the State regarding the leasing of the land. Tokos

said this is the first one where a medical or retail dispensary is proposed in a property that extends out over the Bay. Branigan asked if it only applies to marijuana dispensaries; not fish-processing plants or restaurants. Tokos said that any building that extends on pilings is subject to that kind of lease. For those specific uses that hasn't come up and hasn't been an issue to date. He said the applicant can provide a copy of the lease. Croteau said that he takes it that there were no other public comments other than Miranda's. Tokos confirmed that was correct.

Berman said there was some reference about the odor issue as an impact on neighboring properties, but in the staff report Tokos didn't really address that. Tokos said the applicant was proactive in addressing that issue in their narrative they submitted saying that's an issue that has come up in other areas and that they have addressed it through some sort of carbon filtering.

Proponents: Courtney Davis, 1932 SW River Square, Portland, OR 97201. Ms. Davis said that she had sent Tokos an email earlier in the afternoon addressing the water lease. She said it's a use that they've approved, and they are currently in the process of amending that lease. She said she sent the body of the email Tokos sent them along with several attachments. Tokos said he did get an email from her with the photo of the interior. Ms. Davis said it was sent just before that. It had an attachment that had a list of signatures of the people supporting them having that location on the Bay Front as well as several other attachments. Tokos thought it might have been larger than our limit and asked if she could break it up and resend it. Ms. Davis continued that they have been addressing the lease. Berman asked if that's a new lease with the State that they have just negotiated, or did they just inherited it from the previous tenant there. Shawn Davis, Courtney Davis' brother and partner, said that they did inherit the lease. They had to amend it and essentially sign it for another 15 years when they purchased the property. It runs from 2015 to 2030. He was asked if the State Department of Lands essentially has no problem with their plan. Mr. Davis said no. They told the agency what the proposed use was. State Lands consulted with their attorneys, and they said they approve the use. They do have to amend the lease again; and they are going through that process. He said they forwarded that information to Tokos. They will go through the process and get the documents buttoned up and shared.

Croteau said as he recollects there's a good bit of outside decking outside this building. He wondered if they planned any outside use. Ms. Davis said no they can't have any events with any product outside. Other than making it look nice, they can't do much with that. Mr. Shaw added that there's no onsite consumption. They would like to put tables out there and let people hang out; but there can't be any store-related products consumed there. Branigan asked, even if down the road we can have edibles? Ms. Davis said they still can't condone onsite consumption or allow it unless the laws change in the future. Products can't be used in public or outside the facility, especially on their property. Berman said as he understands it, they will be either recreational or medical, but there can't be both in the same facility. He added, it can be two different addresses in the same physical building. Tokos said his understanding is that it can be two different leased spaces; you can't be in the same space. Ms. Davis said they plan to open as medical with limited retail sales. She said there are discussions going on at the State about cohabitation. Now you have to be two completely separate addresses. At that time, they would surrender their medical license and take on the OLCC license. Mr. Davis said that he thought the cohabitation discussion is very positive that they will combine them. Berman agreed that it makes perfect sense. Ms. Davis said the way that they're writing the laws currently is definitely leaning that way.

Branigan asked if they were going to leave the building that ugly green. Ms. Davis said they would rather not. They would definitely like to have it blend in a little more with the surrounding buildings. They have no plans for any additions, but they would like to improve upon that green color for sure. Mr. Davis said that they did just replace the roof on all of the structure from the candy store on over. They are improving the structure on piers. They are trying to improve the building and the character of the Bay Front as well.

Berman asked what their feeling was about having to spend \$1,000 for a survey to prove the 1,000 feet if required. Ms. Davis said obviously they would rather not; but if they need to they will. She feels that the verbiage that the City has is very similar to what the OHA and the OLCC have; and those agencies have considered those conditions met. She said that they have conditional approval license from those agencies; so to their satisfaction the facility is over 1,000 feet from the other building.

Hardy said that the applicants said they bought the property last year. She asked what the name of the title holder is. Mr. Davis said, Newport Real Estate, LLC. Hardy asked if they have registered that name with the Oregon Secretary of State; and Mr. Davis confirmed that they have. Hardy asked if Oregon Bud Company are actually the same people,

but one entity leasing from the other. Mr. Davis said they're similar people; different partners in the real estate and in the cannabis. There's some commonality with the same people in each group.

Robert McFeek, 223 NW Nye St #11, Newport, who had made comments about the deck and the color of the building, said that he's attending as a supporter of the applicant.

There were no other proponents present wishing to testify.

Opponents or Interested Parties: There were no opponents or interested parties present wishing to testify, so rebuttal was waived.

Patrick closed the public hearing at 7:26 p.m. for Commission deliberation. Branigan said that it sounded to him like the two biggest issues were first the State lease over the water; and that apparently is being resolved. The other was the proximity issue. He said however it appears that the OLCC is taking the point of view that it's over 1,000 feet. He said the GIS shows it is 1,015 feet, and the applicant shows 1,014 feet, so he thought that it's so close we shouldn't impose a survey on there. He said that he doesn't see why the Commission shouldn't grant them the ability to go forward with their business. Franklin said there's two things he sees. He thought the verbiage is wrong where it says "property." He thought it should mention storefronts. He said it's more than 1,015 feet; to the edge of their front glass is more like 1,035 feet. So it's not as much of an issue as he thought it was going to be. But he also thought the Commission should come up with something that if it's close to 1,000 feet, then we do require a survey. But that's not in place now. Croteau thought that's a State issue. Tokos said it's a City issue; it's a city-imposed requirement. Franklin thought in the future that should be spelled out a little bit clearer. Croteau thought the distance issue is relevant to the Planning Commission. He sees this as a neighborhood impact issue; so he thinks it's something the Commission should consider. He likes a survey requirement in general because he doesn't want to set the wrong precedent. He thought it's a legally responsible thing to do. A survey protects the interests of the investor from later challenge. He thought it's a smart thing to do. He would recommend requiring it, and we should just do this going forward as a matter of course. He sees fixing the definition. He thinks it should be entry to entry. But, require a survey. All it needs is the surveyor saying it's more than 1,000 feet, and they're good to go. Berman thought the opposite. He doesn't think 1,000 feet should be considered here as Tokos mentioned in the first option. He said to look at those four criteria, and that determines approval. Further investigation about the 1,000 feet is related to getting a business license, which is a step after the conditional use permit. He doesn't think it comes into play here at all. It looks probably like it would meet it, but he doesn't think it's something for the Planning Commission to consider at this point. It doesn't fall into one of those four criteria. He thought the Commission should approve the conditional use permit with the conditions in the first option; just the two conditions including the evidence from State Lands. Hardy thought that from the standpoint of dotting I's and crossing T's, procedure needs to be consistent. She doesn't have a problem with imposing a requirement that that distance be verified. She also thinks that the lease verification should be a condition in terms of the applicability of the use of that property, and it sounds like that's coming. In terms of trying to establish policy in one land use decision, she really thinks that creates a problem. So we follow procedures that's here now, and then we want a future discussion for policy. That's future and doesn't apply.

Patrick said that he gets the sense that everybody is in favor of the application. What we're arguing about is whether or not the distance is an applicable criterion. Personally he thinks it's an applicable criterion just as much as fire code or building code. Even though they're not in our criteria, they're applicable to all the things that the Commission does. They are existing rules. He thinks it's applicable. He agrees with the concern over the definition of how to measure it. Hardy thought that's based on the fact that sometimes property parcels include multiple units. He agreed that it's probably right that getting a survey would protect your rights. He would probably recommend that they do that anyway. But he's not willing to make it a recommendation that they do that without some basis to stand on. He doesn't know how accurate the GIS system is, but he doubts seriously that it's off 15 feet.

Tokos said the Commissioners might want to break it into a couple of different motions. The first one to see what the tenor is with respect to whether or not the 1,000-foot issue is relevant to the adverse impact criteria. That's the only way you address it because then it would fall under the conditional use review. Then move to a second motion on whether or not that survey requirement is needed.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy, that the 1,000-foot consideration as viewed door to door is relevant as a neighborhood impact consideration by the Planning Commission. The motion

carried 5-1 in a voice vote, with Commissioners Croteau, Hardy, Patrick, Franklin, Branigan voting in favor; and Berman opposed.

Patrick said, now that the Commissioners have determined that it's relevant, let's talk about whether the applicant needs a survey or do we think using the GIS is close enough. Patrick noted that the City has a GIS system; and so he is going to go in and ask them how far it is from one location to another. He said when the City sends notices out, they use the same system. He guesses that you could consider the Police Chief making an appeal to it. Patrick said Miranda's letter says it's at 1,000 feet, so he assumes it's written objection to it. Croteau said it's not that clear to interpret. He wondered how Miranda is weighing that. He doesn't know. Patrick liked Franklin's suggestion that in the future maybe we have something that says within a certain percentage, maybe like under 2% of the distance, and make that the rule. He said that's not something to decide tonight; but we need to put this on a work session and make another pass at the rules. He said tonight the Commission has to make a decision one way or the other whether you think it's more than 1,000 feet, and do we need to make them prove it. Hardy said, or do we need to make the business license process require it or not require it. Berman asked how many times have GIS measurements been challenged. He asked if that has ever come up; that GIS is not accurate enough. Tokos said that nobody relies on that as survey-accurate. With respect to notifications from time to time we have someone complain that they should have received notice and didn't; but it doesn't happen that often. Again, Patrick said the Commission decided that the 1,000 feet is relevant. Now he needs a motion that says either the City's measurement is good enough, or we need a survey; one way or the other. Berman said, but if the OLCC and the OHA accept it, it's the same 1,000 feet. So if they accept it, then the City automatically accepts it. Patrick said they're probably just relying on the applicant to attest that it's over 1,000 feet. Tokos said he would caution against leaning on the State's stance on a standard that is strictly a local option standard. The City didn't have to put that standard in place; it chose to. It's a City standard, and it's totally up to the City how that standard's implemented. The State does their things based on their rules, not based on what Newport adopted into its codes. Hardy asked who would make the final decision on granting a business license. Tokos said at the end of the day, the City Manager would. Hardy asked if the Commission could stipulate that the issue be resolved in the business license process. Tokos said if the Commission wanted to go that route, you probably would have taken the stance that it's not relevant to the conditional use permit. He said once the Commission took the position that it was relevant to the CUP, your requirement for a survey is to meet the conditional use permit criteria not the business license code.

MOTION was made by Commissioner Hardy, seconded by Commissioner Croteau, to make the conditional use permit conditioned on the submission of a survey that verifies the distance between the two dispensaries. The motion failed 3-3 in a voice vote, with Commissioners Hardy, Croteau, and Franklin in favor, and Commissioners Branigan, Berman, and Patrick opposed.

Croteau said that he's really in favor of the application; he doesn't have a problem with this at all. But he thinks just from the point of view of good business, it's something that you want to get nailed down. That's why he wants this to be the precedent-setting conditional use permit. He said Davis is the first one, but not the last. The question will come up again. GIS is great, but survey accuracy is survey accuracy. It will not be challenged. Patrick agreed, but he doesn't want to do ad hoc conditions. That has been a problem. Croteau said that's what he wants to avoid by making it an ironclad rule. Berman said you could be imposing a burden unnecessarily on applicants. He said if you're talking about somebody wanting to open a daycare next to the other medical marijuana dispensary, they would have to prove that they were 1,000 feet from it. You could be talking about a one-person operation doing it for the joy of taking care of children, and the \$1,000 could be a show stopper. Tokos clarified that if you have a recreational marijuana establishment that's in place, a daycare is free to locate closer than 1,000 feet. It doesn't work both ways. The existing owner of that recreational retailer is grandfathered; they are fine as they are licensed. If it turns over, that is when there's a problem. Berman said he just thinks that City business is conducted based on GIS until a legal survey is required like for a road normalization or whatever. That's good enough for him. He said he would support a modification to the ordinance to say if measurements from the GIS are within 2% or 5%, then a survey is required to verify it. He doesn't think it's something that should be imposed here. Croteau said he would be good with some figure. He said he has to believe that if the distance was 2,500 feet, a surveyor would look at that and say yes it's greater than 1,000 feet and stamp it. But, this one is on the cusp. It's a tough precedent to set one way or the other. Patrick said if you want to set a precedent, put sidebars on it that put a numeric value on it so we have something to use in the future. If we're going to set precedent, let's set one that will work for everything and not just this case. Croteau looked to Tokos to give some advice on GIS plus or minus what. Tokos said if he were to throw something out there, he would say 50 feet. If you're at 1,050 feet or more, you're probably fine. That's enough that any kind of

error in the GIS system is going to get considered there. Croteau asked how the Commissioners would feel with plus or minus 5%. Patrick thought that was too much, but he's willing to go along with it. He said if you think of 1,000 feet, that's 20 lots; so you lost an entire lot in 20 lots in the GIS system. Croteau said that seems like a lot. Patrick said that's what he's saying. Your error is probably a whole lot closer to 2% or lower than 5%. Tokos said if the Commission thinks 2-3% is more reasonable, go with that. Patrick said 2% would be 20 feet in 1,000 feet, and he could see having that kind of error. Branigan asked if GIS is based on global positioning satellites; but he was told not exactly. Patrick said it's a computer-driven system. Patrick said the City just got the GIS system not that long ago, so there really haven't been a lot of challenges to that. The challenges were based on the old paper system.

Franklin asked if everyone was in agreement that we would also like to change the verbiage so that it's not to the property corner or the property line but to the storefront for the 1,000-foot rule. So we say that, and we're also saying the 2%. Patrick said we can't change that tonight. Franklin said he's not saying to change it tonight, but he is saying that if we consider 1,015 or 1,014 feet and then add another 25 feet to where they're proposing to put in the dispensary, with what we have tonight this is showing that it's over 1,000 feet, and we just come to agreement that we pass it tonight. Then we can change the code. Croteau said we sort of back into the code. Tokos said on the changes to the code, he would suggest that that motion happen after the Commissioners finalize the action on this one. Berman said we're all in agreement that we would probably support that change to the code, then in retrospect after that change is made, this one would have been outside the 1,000 feet; so maybe we just go with this one and then change the code. Croteau asked if the Commission could make that recommendation tonight. Tokos said he can bring back some code revisions to set that parameter, but he would suggest the Commission do that after the action on this one. Patrick said what he's looking for then is a motion that the Commission approves the conditional use with the 1,015-foot distance.

MOTION was made by Commissioner Branigan, seconded by Commissioner Franklin, to approve the conditional use permit for the proposed recreational or medical facility per the criteria in Section 14.34.050, and accept the map that is attached to the staff report as verification that the dispensary is over 1,000 feet from the existing facility; and furthermore that the applicant submits written evidence that the proposed facility is permitted under the terms of the Department of State Lands' lease. The motion carried unanimously in a voice vote.

Tokos said he needed some clarity as to what the Commission wanted him to bring back. Croteau said he thought we want to definitely go with door to door as the 1,000 feet. The others suggested closest corner of storefront to closest corner of storefront. Ms. Davis said the OHA rules define that really well as the closest exterior wall to closest exterior wall. The Commission thought then that's what we should be using. Patrick said also for any future things that rely on a distance between things, that if it's within 2%, we'll want a survey. Tokos asked to have a motion to direct staff to bring that to a work session.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin, that at a work session to have a discussion of the distance rule to be wall to wall as described in the OHA rules for measuring the 1,000-foot distance; and if it's within plus or minus 2% of 1,000 feet, we require a survey. Patrick thought we should apply this to other things that have distance requirements; he's sure there are others. Tokos said there are some things we require a survey on. Setback variances have to have a survey because you need to know where your property lines are. Croteau thought there are instances in licensing rules that apply to distances between businesses. Tokos said those are State rules. In a voice vote, the motion carried unanimously.

Tokos explained to the applicant that they have been approved without the survey requirement. The final order and findings will be signed tonight, and those will go out to them in the next day or two. There will be an appeal period, but he doesn't expect any appeal to come in. Ms. Davis said she would resend her email to Tokos. Mr. Davis asked if the City needs a copy of the final approved State lease; and Tokos confirmed that was needed to address that condition.

6. New Business.

A. League of Oregon Cities workshop on Land Use Planning at Newport City Hall on April 21st from 9:00 a.m. to 4:00 p.m. Tokos noted the LOC workshop on April 21st. Franklin had registered, but has a conflict that morning and won't be able to attend. Tokos wondered if anybody else can make it. Croteau said he's interested, but may or may not have a conflict. Tokos said to let us know, and we can make arrangements. Patrick definitely has a conflict or he would go. Tokos said it's convenient because it's here.

B. Reminder of Volunteer Dinner on April 19th at 6:00 p.m. at the Oregon Coast Aquarium. Tokos noted the Volunteer Dinner coming up on April 19th. He hoped the Commissioners can make it. It's at the Aquarium at 6:00 p.m.

7. Unfinished Business. No unfinished business.

8. Director Comments.

A. Tokos noted that the parking study outreach meetings are coming up this week. City Center will be here in the Council Chambers at 6:00 p.m. on Tuesday. Nye Beach will be at the Visual Arts Center on Wednesday at 6:00 p.m. Bay Front will be at the Maritime Museum at 6:00 p.m. on Thursday. He said if the Commissioners can pop in to one or more of these that would be fantastic. He said this is an opportunity to plug into this and provide feedback on this process. There will be walking tours during the days that the parking district advisory committees are doing with the consultants to help them get a good understanding of what the issues are in the different areas. He said the process is going well.

B. Tokos noted that we have three applications for the Planning Commission. The City Council will be doing interviews next Monday. We will probably have a new Planning Commission member at the next meeting. There was one other person who applied just for the Advisory Committee. So interviews to fill those two vacancies may be set up with the Planning Commission as well.

C. Tokos noted that there was a housing forum on April 5th talking about workforce housing. He said that the City Council will talk about these issues further to see where they want to go. He thinks they will end up setting a meeting with the elected officials of Lincoln City and the County Commissioners to talk about how at the policy-makers level to hash these things out.

D. Tokos noted that Councilor Engler has asked the City Council to talk about vacation rentals. He said we will see how that discussion goes and whether there's a desire for further work on vacation rentals. It's probably timely to give the Commission a work session update on how that program's been working out as it's been a couple of years.

E. Patrick said when they put the church downstairs at the Elks, they were supposed to restripe the parking lot; but there are no stripes now. Tokos will follow up with them.

F. Franklin asked what the drilling was that was taking place in Nye Beach in front of the pump station at the turnaround. Tokos said he wasn't sure. He would have to talk to Tim Gross. He knows they had issues with that pump station and wondered if it relates to that.

G. Patrick had something to pass on to Tim Gross. He walked between Nye Beach and Agate Beach, and there is a little creek that comes out close to Agate Beach. On the other side of that it looks like there's a sewage problem going on. It's before Big Creek. Tokos said they have had a number of pump failures on that daisy-chain setup. Franklin asked if they have ever made improvements to the outfall at Nye Beach to lower those numbers. Tokos said they have made a number of improvements, and they are still having issues.

H. Tokos said that Safe Haven Hill is effectively done. There's a ribbon-cutting on the 29th. Five years of work with a FEMA grant is complete. Patrick asked about the rest of Coho/Brant. Tokos said it's pretty much wrapped up. Patrick asked what about the intersection. Tokos said ODOT is doing the signal change from 32nd to 35th in 2018. He said that everything on the west side, Abalone, 30th, 27th, Brant, are done.

I. Branigan asked about Golf Course Drive. Tokos said we had an initial public outreach meeting to talk to the folks up there about what they would like to see. He thinks it was a productive meeting. We will fine-tune a design for them. He thinks there will be an LID formed down the road, but not until the design is hammered out and their issues are resolved. The street may be 20 feet wide with 2 feet shoulders on each side. Probably in late summer or fall we'll pick up the conversation about an LID. Branigan said he was told that for the next meeting they want to have it at the Golf Course and only for residents; not open to the public. Tokos said that Public Works took the lead on that; but as far as he's concerned, they're public meetings.

J. Tokos said we currently don't have anything for the next meeting; so there won't be another one in April. The next meeting will be the first meeting in May.

9. Adjournment. Having no further business, the meeting adjourned at 8:08 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant