

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
December 10, 2018

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

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Hardy, Berman, Croteau, Patrick, Franklin, Hanselman, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of November 26, 2018.

Tokos reported the Jamie Michel had submitted a request for corrections to the November 26 work session meeting minutes.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission work session meeting minutes of November 26, 2018 with minor corrections, including corrections requested by Jamie Michel. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission regular session meeting minutes of November 26, 2018.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve the Planning Commission regular session meeting minutes of November 26, 2018 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **File No. 6-MISC-18-A.**

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Final Order and Findings to deny the appeal for File 6-MISC-18-A as presented. The motion carried in a voice vote. Franklin and Hardy were a nay.

5. **Public Hearings.** At 7:04 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman noted that he had filed complaints on VRDs in the past. Croteau said he had no conflicts of interests and his views on VRDs had been given over the last year. He stated he was open to revisions of his opinion based on public testimony. Franklin, Hardy, Hanselman and Branigan reported no conflicts. Patrick noted the previous comments he gave on VRDs. He stated he had no conflicts on the other agenda items.

Patrick called for objections to any member of the Planning Commission hearing any agenda items. Don Andre, member of the VRD Advisory Committee (AC), addressed the PC. He stated in relation to item 5.C of the agenda, he had questions for Hanselman on fairness and objectivity while participating on this process. Andre said that at an AC meeting, Hanselman had stated, "those of us who live and work in Newport need to stick together." Andre felt Hanselman approached the topic in an adversarial point of view and he took a "us versus them" stance. He said the members of the AC that were VRD owners and managers were treated as outsiders and as less valued. Andre asked

Hanselman if he still believed that the people who lived and worked in Newport were a different class, subject to different rights, and asked him to explain what he meant. Hanselman said his intention was not to suggest there was a different class. Andre asked Hanselman if he was asked to be open minded with the process. Hanselman said his intent was to be open minded. Andre asked Hanselman if when he was assigned to the AC, was he asked to be open minded and consider other people's points of view. Hanselman stated his role as a AC member was to be as open minded as he could and this was his intent. Andre asked if he was able to truly hear and consider other people's concerns, such as VRD owners, and how the change in rules could create unintended hardships and challenges for them. He said he didn't have the sense that Hanselman was giving thoughtful consideration for VRD owners. Hanselman stated he tried to consider many points of view and many discussions with the AC were from different points of views. He said that if he appeared to be biased or not open minded he wished it had been raised at that time. Andre said he did address a defensive, aggressive undercurrent at the time. He appreciated that Hanselman wanted to have an open mind. Andre wanted the public to know it wasn't a tidy process and stated he was not objecting to Hanselman.

Norm Ferber addressed the PC. He said he was on the AC and submitted a letter to the City Council about the last PC work session meeting. He said the audio tapes of all the AC meetings demonstrated an outright prejudice of Hanselman. Ferber stated he objected to Hanselman hearing the matter and didn't think he was capable of an object decision making process.

Patrick asked how to proceed. Tokos said the PC would take Ferber's testimony and it was up to Hanselman to decide if he wanted to be a part of the process. Hanselman wasn't legally required to step down. Patrick asked Hanselman if he wanted to continue to serve. Hanselman said it was his intention to serve.

Patrick called for objections to the Commission as a whole hearing these matters. None were heard.

A. File No. File 4-NCU-18.

Tokos noted that the hearing had been continued due to concerns raised by Cristi Fritz. He reported that he had mailed Fritz the Final Order and Findings because she had only provided her mailing address. He noted that the Final Order had a revision stating the three previous park model units were categorized as permanent residences and this new one was done as a permanent residence as well. Tokos said that a copy of a revised Final Order was supplied to the PC at this meeting.

Proponents: Dennis Bartoldus addressed the PC. He said that park models were categorized as RVs. This addition was intended as a permanent park model and they didn't want any confusion in the future that it would be a permanent space. Berman asked if anyone had heard from Fritz. Tokos reported that he had not heard from Fritz. Bartoldus stated that the Final Order indicated that all the property along 5th Street that she objected to were excluded from the park.

Opponents: None heard.

The hearing was closed at 7:18 p.m. Hardy, Berman, Croteau, and Franklin stated they had no problems approving. Hanselman thought the boundary had been delineated properly and it was satisfactory for the parties interested. Branigan and Patrick stated they had no concerns.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve File No. 4-NCU-18 with conditions. The motion carried in a unanimous vote.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy to approve the Final Order and Findings for File No. 4-NCU-18 as written. The motion carried in a unanimous vote.

B. File No. 4-CUP-18.

Tokos gave his staff report noting the renovations to the Sylvia Beach Hotel was consistent with their previous conditional use application.

Proponents: Justin Luckini addressed the PC. He agreed with the staff report and noted they were keeping this phase to the same standards as the last approval. He noted these changes would be happening over a period of time and wanted to include everything in a package at one time. Berman asked about if all the items on 6 would be immediately done with the rest being completed over a period of time. Luckini confirmed this.

Wendy Engler addressed the PC and stated she was on the City Council but was addressing the PC as a citizen. She noted that in the staff report there was an omission which failed to add that the hotel was located in the C-2 zone and in the Nye Beach Overlay District. She thought disregarding this could lead to unintended consequences and wanted it added.

Opponents: None were heard.

The hearing was closed at 7:26 p.m.

Branigan stated he appreciated Engler's words for the overlay and didn't have a problem with giving his approval. Hanselman stated he supported the project. Franklin wished the applicants didn't have to ask permission every time they made repairs but had no problem approving. Croteau said he had no problem giving approval and wanted it noted the property fell within the Nye Beach Overlay. Berman thought an approval was appropriate. He asked how the wording in the final order could be changed to include that it was in conformance to the Nye Beach Overlay. Tokos said the Nye Beach Overlay wasn't material in this decision but it could be included as background information in the Final Order and Findings. Hardy noted that the property wasn't the Sylvia Beach Hotel. It was owned by Sylvia Beach Hotel Inc and was the old Gilmore Hotel. She felt any attempt to improve this structure wouldn't violate anything. Patrick didn't have any objections and said the problem with procedures was that the PC had to review these changes every time.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve File No. 4-CUP-18 with the notation of the Nye Beach Overlay language and conditions. The motion carried in a unanimous vote.

Luckini noted the painting of the hotel that was previously approved hadn't happened because they were waiting until the next improvements were done.

C. File No. 5-Z-18.

Tokos gave his staff report and noted the additional public testimony that had been received. He gave an overview of what had transpired since the last public hearing. Patrick asked the PC for their thoughts on continuing the hearing. Berman was in favor of a continuance. Croteau wanted to take public testimony and thought the evening would be an appropriate time to close public testimony. Branigan thought they should have a work session to work through the changes.

Patrick opened the hearing for additional public testimony at 7:29 p.m.

Tracey McDowell, attorney for Norm Ferber, addressed the PC and said she was there to answer any questions on Ferber's letter. Berman asked if she had seen the staff report. She stated she had. Berman asked for her input on the additional option for transferability that was suggested. She said she reviewed the staff report but said this didn't solve the problem. Patrick asked her to explain her reference to case law. She explained that Oregon case law was very clear that VRDs were a residential use.

Keith Turner addressed the PC. He submitted written testimony and was a VRD operator who empathized with other VRD owners. He asked the PC to consider enforcement and asked them to give comments on enforcement when solving this problem. Croteau said he agreed that enforcement was an issue and was important.

Rob Hildebrand addressed the PC. He reviewed how he built a house at Newport with local vendors. He asked the PC to remember that the 50 who might lose their VRD licenses people were still people and he didn't want the new rules to destroy folks. He suggested grandfather clauses.

Glen Stockton addressed the PC. He stated he waived his right to testify and said he was present to hear the process.

Tom Huff addressed the PC. He thought enforcement and fines were great but thought they should not penalize owners unless there was an issue. He thought VRDs were a smaller factor in affordable housing. Huff suggested a tax on VRDs to contribute to affordable housing. He supported the staff recommendation to do a cap. Huff was concerned about Alternatives 3 and 4 pushing higher concentrations of VRDs into other regions. He suggested the PC consider a survey of Newport and possibly a ballot measure to consider these changes.

Joanne Ronzio addressed the PC. She said that people didn't buy in residential zones to have commercial in them. Ronzio wanted it noted that volunteers lived in R-1 and R-2 zones, and more than 70 percent of VRDs are owned by out of towners who didn't spend money in community. She was pro neighborhood and felt VRDs didn't belong in R-1 and R-2 neighborhoods.

Anne Sigleo addressed the PC. She stated she agreed with the previous testimony. She thought there needed to be restrictions on VRDs so the residents who lived in these neighborhoods didn't feel like outsiders. Sigleo wanted enforcement done and thought a survey of Newport should be done. She wanted to see the number of vehicles restricted as well, especially on streets that were small and hard to maneuver on.

Don Andre addressed the PC. He said his intent was that the City took the concerns of VRD owners seriously. He supported the short term recommendation by staff and felt it was important to protect the right of an individual who worked hard and wanted to transfer their asset. He was opposed to the PC recommendation. Andre didn't feel it would solve any long term VRD concerns and could result in litigation. He thought it was inappropriate to tie concerns to one group of people. He stated there had been a disagreement with the AC on what livability was, and stated it was different for tourists and for residents.

Martha Winsor addressed the PC. She wanted the PC to look at what the density of VRDs would be when they made their decisions. Alternative 3 would be concentrated in the Nye Beach areas and north of the bridge. This would bump up Nye Beach to have 30 percent of the VRDs and would kill neighborhoods. Winsor felt that recognizing the density when considering map alternatives was important and asked the PC to consider the outcome.

Wendy Engler addressed the PC and stated she was testifying as a public member. She noted that she lived in Nye Beach and the district has been recognized by the city as a thriving mixed use neighborhood. Engler thought the City needed to protect Nye Beach from VRDs being dominant in the neighborhood. She thought there had been a disregard for the Nye Beach Overlay and felt it was being used as a dumping ground for VRDs. She thought they needed to update the plan for the neighborhood and felt Alternatives 3 and 4 would have a devastating impact on the Nye Beach district. Engler supported R-3 and R-3 spacing requirements. She wanted the PC to look at the C-2 zone and felt there needed to be a refinement plan for Nye Beach. Engler asked the PC to consider specific spacing and density, and thought that long term rentals would be a possibility. Berman asked if there were specific provisions in the Nye Beach overlay for the VRDs in Alternative 4 for mitigation. Engler said yes, the provisions were: protecting neighborhood livability, creating an environment conducive to cottage industry, and preservation of housing. She said VRDs weren't residences or mixed use. Croteau said he had read all of the reports going back to the GLICK report in the 1990's and said they were more qualitative in nature as to what the neighborhood would look like rather than quantitative as a zoning law might be. Engler said prior to the online booking platforms, no one ever considered VRDs would become a big industry. She said if they addressed the Nye Beach core zone proposal that the PC agreed to take a look at in August of 2017, they could delve deeper into the founding documents and develop a new vision. Engler also noted that the City of Newport Vision 2040 identified mixed use neighborhoods which meant diversity, not having neighborhoods be all VRDs.

Scott Lackner addressed the PC. He stated he was a VRD owner and had no problems with his neighbors. He asked the PC to consider the VRDs that didn't have problems. Lackner felt the VRDs that weren't following the rules needed to be dealt with.

Nyla Jebousek addressed the PC. She asked the PC to consider the fact that VRD uses were like hotels. The behaviors of tourists was different than residents as they came and went a lot more than residents. The industry was new and the PC had to think about the long term effect on the community. Jebousek stated she wasn't opposed to VRDs. She asked the PC to look at the bigger picture on how things played together, and how fast things changed and would impact the area.

Norm Ferber addressed the PC. He said he was a part of the cottage industry and was the first in Newport to convert buildings into VRDs. Ferber wanted it noted that Engler had built two VRDs which had only two parking spaces. He noted that in 2002 the city determined that he was a business and he was unhappy that he couldn't sell his business when he chose to. Ferber noted he was personally attacked as a member of the AC but was told after the meetings that he wasn't the problem. The PC needed to look at VRDs who didn't operate correctly. It was up to them to figure out a solution for all the members of the community, not just the vocal ones.

Ona McFarland addressed the PC. She noted she was a permanent resident and surrounded by VRDs. Because of the VRDs by her house, she was on guard. McFarland said the people who owned VRDs were making money at her expense.

Patty Lee addressed the PC. She understood the concern about density in residential areas. She said her VRD was a good rental. Lee appreciated the parking restrictions for VRDs. She hoped the city looked at what really attracted people to come to Newport and to cultivate others to share in this community.

Jamie Michel addressed the PC. She served on the AC and said her recommendation was to urge the PC and City Council to take the decision in steps. The ordinances in place weren't enforced as strongly as they should have been. She was a VRD manager and believed the first step should be to tighten up the good neighborhood policy and tie it in with parking and occupancy so impact to neighbors was kept to a minimum. This would allow the city to knock the bad players out of the neighborhood. Michel suggested they come back in a year to revisit the discussion and look at deeper recommendations such as limiting density. She thought the city needed to be careful when taking or limiting people's uses. Michel recommended making changes in stages and reinforcing a good neighborhood policy.

Vince Pappalardo addressed the PC. He noted he lived between two VRDs without any problems. VRDs played into people's decision on coming to Newport and they wouldn't come to Newport if VRDs went away. Pappalardo looked into homeshares and asked the PC to clarify how they were going to do these. He thought they were viable options and didn't want this thrown out. Pappalardo didn't think a phased in enforcement approach was better. The VRDs who were bad should lose their license. He also thought a cap was good to be able to evaluate where the city was now.

Susan Davidson addressed the PC. She noted that she used to live in a small unit she rented for \$800 in Newport that was turned into a VRD and was making three times more than what the owners were making as a long term rental. She said that Newport had a declaration to end homeless in 2007 which stated it would be gone in 2017. Davidson said this had not happened and homelessness had quadrupled since then. She noted that VRD owners were contributing to local livability but they were taking away business from Newport. She said the recent sale of the Agate Beach RV park meant 40 families were displaced, and the County was also using housing for transitional offenders which took away from viable long term renters. She asked the PC to take a look at all the pieces of the puzzle because they were interconnected.

Patrick closed the public testimony of the hearing at 8:52 pm.

Tokos said the PC would be looking at either the 3rd, 8th or 9th of January for a work session meeting, then they would reconvene the hearing on January 14th.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to continue the deliberations for File 5-Z-18 to the January 14, 2019 Planning Commission regular session meeting with a work session meeting scheduled before this date. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** Tokos noted that the city had advertised for the Planning Commission Advisory Committee members but had not received any applications.

Patrick requested that staff provide all of the combined public testimony submitted for the VRD ordinance amendments given to the PC as a packet. Berman asked to have them labeled as different attachments. Tokos said the labels were staff intensive but would compile all testimony into one document.

Tokos noted that the City was partnering with the County on a regional housing study and would be kicking it off in the next weeks. They would have meetings over the next six months and would wrap in June of 2019. A discussion ensued regarding upcoming meetings.

Croteau wanted it noted that he did try to come up with transferability compromises for the VRD amendments.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:21 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant