

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 9, 2023

Planning Commissioners Present: Jim Patrick, Bob Berman, Braulio Escobar (by video), Jim Hanselman, Gary East, Bill Branigan, and John Updike.

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 6:00 p.m. On roll call, Commissioners Patrick, Branigan, East, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of December 12, 2022.**

MOTION was made by Commissioner Branigan, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of December 12, 2022 as written. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **Annual Organizational Meeting.**

MOTION was made by Chair Patrick, seconded by Commissioner Berman to nominate Bill Branigan as the new Planning Commission Chair. The motion carried unanimously in a voice vote.

MOTION was made by Chair Branigan, seconded by Commissioner Patrick to nominate Bob Berman as the Planning Commission Vice-Chair. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 6:04 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioners Hanselman and Branigan reported drive-bys. Commissioners Patrick, Berman, East and Patrick reported site visits. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 4-CUP-22:**

Tokos reviewed the staff report and showed an aerial map of the lot to illustrate the site and the areas that would be altered for the new dealership building and service building. He also covered the land use requirements the applicant would have to meet that included landscaping standards, State legislation for EV charging stations, light shielding, employee parking for carpooling or vanpooling spaces, separated bike lanes, additional sidewalks on the northside area of 35th Street,

and sign permits. Tokos thought the standards had been met for the Commission to be able to approve the request.

Berman asked if the vanpool rules had a minimum number of employees for when the rules kicked in. Tokos reported the dealership was over this threshold and the standards came into play only when they had employee parking. Berman asked about if 15 foot landscaping standard had been added to the Municipal Code. Tokos confirmed it had been included. Berman questioned if vehicle repair wasn't allowed in this zone under the code. Tokos explained that vehicle repair became a conditional use with the ordinance changes.

Udike asked if the details of landscaping they were implementing would be provided later. Tokos reported they would provide these details with their building permit plan submittal.

Hanselman asked if the applicant was going to include a body shop that did painting or if they were just servicing vehicles in the vehicle repair department. Tokos would deferred this question to applicant.

Proponents: Paul Kurth with LRS Architects addressed the Commission and noted he represented the applicant. He explained that the dealership would be designed as a showroom and vehicle repair. Hanselman asked if the parking spaces in drawing A.002 would be used for employees or the public. He also wanted to know if the repair shop would be body shop to do work to fix wrecks. If so, Hanselman wanted to know where the wrecks would be parked. Hanselman also asked where the EV charging stations would be located. Kurth reported he didn't see the dealership doing any body shop work inside of the structure. He noted they would have a number of EV charging locations but they hadn't identified any locations at that time. Hanselman suggested they make sure to keep the lighting directed onsite.

Branigan asked how many EV charging station there would be and if they would be fast chargers. Kurth reported he didn't have the information at that time. Berman asked if they were only required to put in the conduit for charging stations. Tokos confirmed this was correct.

Opponents: None were heard.

Chair Branigan closed the hearing at 6:34 p.m.

Hanselman thought the applicant had been thorough but thought they needed to explain a few more things. He hoped they would be good members of the community. Hanselman stated he would support an approval.

Patrick thought they met the criteria. He thought the conditions were reasonable and it would be an improvement. Berman, East and Udike agreed.

Escobar reminded that the Commission knew this application would be coming through when they did the adjustments to the zoning in South Beach. He thought this would enhance South Beach and he fully supported it because they met the criteria.

Branigan thought all the conditions had been met and felt this would be an improvement. He supported the renovation of the dealership.

MOTION was made by Commissioner Patrick, seconded by Commissioner Escobar to approve File 4-CUP-22 with the three conditions. The motion carried unanimously in a voice vote.

B. File 3-AX-22 / 7-Z-22:

Tokos reviewed the staff report for the annexation. He noted that a separate public hearing for a conditional use permit that would go before the Commission, then on to the City Council, when they had the details about what the Church intended to construct. This would happen at a later date when the Council did an ordinance. It would then go to the Oregon Department of Revenue who would officially modify their maps.

Berman asked if the property to the east of this location was public property. Tokos reported this was city owned property. It used to be part of the Seal Rock Water District and was subsumed by the city. Berman asked if there were any plans for this property. Tokos noted they would like to extend a trail down the Chestnut Street right-of-way and along the property back to the Wilder subdivision. Berman asked if there was involvement by the County to withdraw this property. Tokos reported the County didn't have involvement. The property would be withdrawn from the Lincoln County Library District and the Rural Fire District. The city already provided services to this area so this was a wash for the districts. There was also a Seal Rock Water District agreement that had outstanding debt that accrued before the city took over water service for this area. The city had to pay the small outstanding balance and it would soon the debt would go to the wayside.

Patrick asked what the policy was for landlocked lots. Tokos explained this wasn't a land locked lot and he showed the Commission where the access would be on the map.

Proponents: Luke Frechette with South Beach Church addressed the Commission. He reported that he was the owner of the property and was excited about the process to purchase the property. Frechette gave an overview on the progress they were going through to ultimately build on the lot.

Berman asked what their timeline to move to the property was. Frechette reported they would be building as fast as possible and hoped to break ground in March. They had to be out of their current location by December 31st of this year. If they were not ready, they might try to apply for an extension of the lease. If this didn't happen they would temporarily move until the new structure was complete.

Escobar asked what their plan was to mitigate noise at this parcel. Luke reported they were designing a building that was acoustically sound inside and out.

Opponents: None were heard.

Chair Branigan closed the hearing at 6:50 p.m.

Updike had no problems with the application and was in favor of it. East agreed. Berman thought it was the logical thing to do. Patrick agreed and thought the zoning fit. Hanselman said he was good with everything and thought this was the way to annexing.

MOTION was made by Commissioner Patrick, seconded by Commissioner Berman to make a favorable recommendation to the City Council for File 3-AX-22 / 7-Z-22. The motion carried unanimously in a voice vote.

C. File 5-Z-22:

Tokos reviewed the staff report that included the recommended changes to the Short-Term Rental (STR) Ordinance. Revisions included (a) adding a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codifying the process the City was using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a “strike” against the owner’s short-term rental endorsement; and (d) eliminating the option that allowed the City Council to adjust the cap on the number of available vacation rental licenses by resolution as long as the cap figure did not exceed 200. On May 6, of 2019, with Resolution No. 3850, the City Council established the current cap at 176 licenses.

Tokos acknowledged the public comment received from Cheryl Connell concerning the 30 day grace period for new owners to operate without a license. He reminded that what they were talking about were units that had been previously licensed and inspected. Tokos noted that it was an entirely legitimate and understandable issue for Miss Connell to raise, but thought it was somewhat of a mitigating factor and a little bit different than a unit that had never been inspected. He also explained that Connell opposed the 176 license cap because it only applied to licenses in the permissible area and not to ones outside of the boundary.

Berman asked where they were at in terms of the caps and the number of operational STRs within the zone. Tokos explained that the area within the zone was where the cap applied. The cap number had been set at 176 since the 2019 changes. Tokos explained that typically the city freed up around 20 licenses per year to make available to people on the waitlist. People on the waitlist typically waited around two to three years before they were offered a license.

Hanselman asked how many licensed units there were outside of the allowed zone. Tokos explained when the new ordinance started it was around the mid 40’s and currently was around the mid 30’s. These licenses typically went away when the property was sold, the owners closed their licenses, or when the owners changed the properties to long term renting or they no longer wanted to do short term rentals.

Escobar suggested the Commission do a work session meeting to discuss this before making a decision. He didn't like the 30 grace period.

Berman asked if there was a parallel 30 day grace period for when the new owners of hotels received their licenses. Tokos explained that the city didn't shut them down during the period they were obtaining their business licenses. Berman asked if hotels had inspections like STRs. Tokos reported their inspections were a little different, and the Fire Department did their own inspections. He noted that a hotel could operate without a business license while waiting for their license to be issued.

Berman wanted to revisit the 10 year phase out for STRs outside of the zone and thought a work session meeting should have a discussion about doing this. Tokos explained the Commission had the right to do this, but they needed to make it clear that this wasn't a recommendation from the work group and that it came from the Commission. Updike asked if the work group discussed the phase out. Tokos reported there had been discussions, but they felt these licenses would go away over time. Branigan pointed out that he had served on the work group and reported that they had discussed this several times. They thought this was working fine as it was and it didn't think it needed to be changed.

Escobar wanted the Commission to discuss operating without a license for 30 days. He agreed that things were better now than before the new rules went in place. Escobar thought the ordinance was favorably working. Hanselman supported a work session meeting about the grace period and doing a phase out. He thought STRs outside of the zone were going away but it wasn't constant. Escobar requested that members of the STR work group participate in a work session meeting. Tokos would ask members of the Work Group to join the meeting and suggested continuing hearing to February 13, 2023 at 7 p.m.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to continue the public hearing for File 5-Z-22 to the February 12, 2023 meeting starting at 7 p.m., and schedule a work session meeting beforehand to discuss the changes. The motion carried unanimously in a voice vote.

Berman asked Tokos to bring language on a phase out to the work session. Tokos explained that he could do this, but if they were to entertain something like this, it would be a significant change that begged a much more public process. He cautioned that this wouldn't skate through with a number of limited public engaged. Tokos noted that if he brought forward language he expected the Commission would talk about it in the work session, and then discuss backing this out and doing a more robust public process. Otherwise, the public could say they never received notice it was being discussed. Berman thought this was the time to bring it up because the last time it was brought up at Council it was premature.

6. New Business.

A. 1886 Building and City Limitations on the Demolition of Historic Structures.

Tokos reviewed the memorandum concerning the demolition of the 1886 historical building in Newport. The current owner wanted to demolish and rebuild it with the same architectural aesthetics. He asked if the Commission wanted to take the building off the historical list. If so, this would require a Comprehensive Plan change to take it off the local inventory list and demolish the building. Tokos explained the Commission could then take more time to see if they wanted to make changes to the code itself and say they could allow demolition in certain circumstances. Tokos referenced the sample codes he provided concerning demolition. He reiterated that the 1886 building was in disrepair and could become a risk. Tokos explained the new owners had looked at what they could do with the building. An engineer looked at the property in the summer and said it wasn't an imminent risk but had serious issues. The new owners found that it would be around \$2 million to rectify the problems. Tokos reported they bought the building to rectify the situation and to in part protect their investment next door. The owners didn't see a viable option to remodeling it. Tokos noted the owners were open to working with the Historical Society to talk to them about any documents they would want, or to incorporate some significant elements into their redesign.

Berman asked if there were any provisions in the code that had to do with historical buildings that had been properly brought to enforcement in the last 20 to 40 years. Tokos didn't know of any but noted there were limited building maintenance provisions in the nuisance code. Berman wanted to keep this from happening again and asked if the Commission should be working with the historical code to have periodic inspections on the buildings and consequences for not fixing things from one year to the next. Tokos wasn't sure what this would look like or how effective this approach had been for other jurisdictions. He thought the most effective thing to do was to take this property off the historical list through the Comprehensive Plan modification. Then initiate work on the

historic code to look at the other buildings on the list, if there are other buildings to add to the list, to look at creating a process for this.

Hanselman noted that Jump Off Joes was still listed. Tokos reminded the Castle, Sylvia Beach and Earnest Bloch sites had been reviewed by the Commission. Updike asked how many buildings were on the State inventories. Tokos didn't know and would have to get the numbers for him. Updike had a problem with awarding a demolition through neglect. He thought they needed to be careful on what they did for this decision, and how precedential it could be for other similar buildings. Updike wanted to see some protections added to the language. Escobar asked if they could focus on this request to remove the one structure as a historical building and then discuss other issues in the future. He thought that Mo's had been a good citizen in the community and pointed out they stated in their letter they submitted that they wanted to preserve the same type of skyline adjacent to their existing building.

Commissioner Escobar made a motion to allow the removal of the 1886 building from the city's historical designation.

Tokos noted this motion would mean that the Commission was giving him the green light to prepare amendments to the comprehensive plan to do this. He thought they could justify an emergency adoption of the ordinance so the building didn't fall down. Updike expressed concerns that if they went down the path for an exit ramp for situations like this in the future in the code, he didn't think the letter they submitted was a robust financial analysis of building new versus rehabbing the old. Updike thought \$1.5 million wasn't an accurate cost estimate. Patrick reminded that there wasn't a way to fix this property. Updike was concerned about letting them make changes based on neglect. Patrick thought that when they did a new ordinance they would build in an emergency order for this. He reminded they could give them an emergency order because there wasn't anything in the current ordinance requiring them to maintain the building.

Tokos thought if the Commission initiated the process to amend this on the Comprehensive Plan level, it wouldn't be unreasonable to request that the McEntees provide additional information before the public hearing. Updike wanted to avoid a precedent of need. Tokos thought they could ask the McEntees to provide more details on the problems of the structure and why demolition was the only way forward. He thought the Commission could also do more in-depth work on how they should restructure the historical review process, how to create a safety valve for allowing demolition in certain circumstances, and how to make sure there wasn't an incentive to not maintain buildings. Patrick wanted a survey done on what shape the current historical buildings were currently. Tokos reported the Fire Department was currently putting together a plan for responding to protect the rest of the structures that are adjacent to the building in question.

Tokos reminded that when the McEntees purchased the property they knew the building was a problem. They purchased it in part to address the risk it posed to their own investments immediately adjacent to it. Tokos noted they didn't understand the historical significance of it at that time. Patrick asked if they could put a condition on this that they build something similar to what was there. Tokos reminded the conditional use would allow them to add conditions that it be consistent with the development character of the area, relative to its size and height.

MOTION was made by Commissioner Escobar, seconded by Commissioner Hanselman to initiate the legislative process to modify the Comprehensive Plan so the 1886 structure was delisted as a historical building and to allow the demolition of the building. The motion carried unanimously in a voice vote.

Tokos would send the notice to the state and get a public hearing scheduled.

7. **Unfinished Business.**

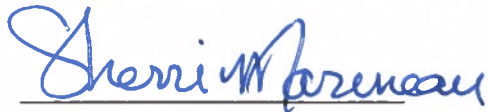
A. **Planning Commission Work Program Update.**

Tokos reported he would give updates to the Commission on the work program as it evolved.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:39 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant