

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video Conference
April 12, 2021

Planning Commissioners Present by Video Conference: Jim Patrick, Bob Berman, Jim Hanselman, Braulio Escobar, Gary East, and Bill Branigan.

Planning Commissioners Absent: Lee Hardy (*excused*).

City Staff Present by Video Conference: 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 7:10 p.m. On roll call, Commissioners Hanselman, Branigan, Berman, Escobar, East, and Patrick were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work and Regular Session Meeting Minutes of March 22, 2021.**

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work and Regular Session Meeting Minutes of March 22, 2021 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.**

A. **Motion to appoint the Policy Advisory Committee Representative for the Estuary Management Plan.**

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to appoint Jim Hanselman as the policy advisory committee representative for the Estuary Management Plan. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:12 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. Patrick reported a conversation he had with Julie Garrand where they talked about short-term rentals in terms that pertained to the public hearing. Hanselman reported a conversation with Carla Perry who asked him for additional information about HB 2001 and copies of Planning Commission minutes. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 4-Z-20.**

Tokos noted that this was a City initiated proposal and there was no applicant. He acknowledged the testimony received after the staff report was posted from Shannon Nottestad, Linda Shubert, article in the NewsTime publication from Rose Jade and Lucinda Taylor, Kari and Kim Vertner, Janet Kiger-Hellard, Diane Killia, Lucinda Taylor, Elizabeth Burch, Racel Cotton, and Samuel Goldberg.

Berman noted that some of the additional testimony came in that day and close to the hearing start time. He didn't like to be rushed through reviewing testimony and thought they should have a policy that if something came in four hours before the meeting, the testimony would be read into the record by staff. Berman noted this didn't happen very often but the huge batch of testimony right before the hearing needed more time to digest. Patrick thought another option would be to continue the hearing so they had time to read additional testimony and digest it. Tokos reminded that they could continue to receive testimony close to the meeting time for each hearing. In this case, the testimony they had been receiving had common themes that concerned goal 10, additional density residential areas, and parking. They would be working through these issues during the meeting.

Tokos reviewed his staff report. He reminded that these amendments had nothing to do with any changes to the rules for short-term rentals. The proposal was to amend Newport Municipal Code (NMC) Chapter 14 to implement mandatory, and certain optional provisions of HB 2001 (2019) that would allow duplexes (i.e. two-family dwellings) on all lots and parcels in residential zone districts where single-family detached dwellings were permitted. Cottage clusters were added as a new housing type in R-3 and R-4 zone districts, and design standards were included for both cottage cluster and townhouse developments. The revisions further addressed the interplay between duplexes, accessory dwelling units, and multi-family uses, and an on-street parking credit option for new residential development had been developed similar to what the City currently had in place for portions of Nye Beach.

Tokos reminded that all medium sized cities were required to treat duplex units the same as single family detached and had to allow them on all lots where single family detached dwellings were allowed. If the city didn't do this by their own ordinance, city staff would have to then apply the model code as of June 30th. Tokos explained that the Commission had already reviewed the large city provisions and they elected to not do the optional rules to allow fourplexes on individual lots that allowed single family detached. The only options they went with was the allowance for cottage clusters in R-3 and R-4 zones where that density was already permitted. There was also no density change with townhouses, but the Commission expressed interest in pursuing design standards for them.

Tokos explained that there were options on how to make Accessory Dwelling Units (ADUs) work now that the City was required to allow duplexes. One mandate was to allow an ADU with a duplex which would mean three dwelling units on a property where presently there could only be two. Some Commissioners had voiced concerns about going down this path. Option two would just allow ADUs in conjunction with single family detached on a property. This was the minimum they could apply to comply with the State law. There was also flexibility with option two to allow ADUs with townhouses and for parking. Tokos reminded they couldn't treat duplexes any differently from single family detached. The draft code had the maximum amount of off-street parking they could require for a duplex and still comply with the State law. Another area they could go, but wasn't required, was to give an on-street parking credit where one was. There would also be six stipulations to this which were: 1) there could be no short-term rental on the property; 2) there needed to be measurable defined on-street parking spaces available in that area that was on both sides of the street; 3) each on-street parking space needed to be 22-ft long by 8-ft wide; 4) parking spaces had to be on the same side of the street and abutting the property; 5) on-street parking spaces could not obstruct the clear vision area; and 6) there was no assumption that the parking spaces were only for the property and had to be open to the general public.

Tokos reported that some people giving testimony were citing streets that didn't have sufficient parking that would not qualify. The Commission needed to consider the parking requirements because it could be an impediment to housing development.

Tokos reported he had only made one change in the code since the Commission saw it at the last work session meeting. This was to address a question by the DLCDD who were a little confused on the transition for a duplex to a multi-family development. The added language clarified that the number of units was in

any particular building. Two units in a building was a duplex and three or more in a building was multi-family. This cleaned up the distinction between the two.

Tokos noted that the Fair Housing Council made a comment saying they wanted to see a Goal 10 finding included. The City wasn't required to make a Goal 10 finding or findings of compliance with any statewide goals until this package of amendments was up for final adoption in front of the City Council. He wouldn't put an ordinance together until after the Commission acted and made a recommendation to the Council so he could account for any changes they did following public testimony.

Berman pointed out that on Page 4 of 6 of the draft it stated "Option 2 could be expanded to allow a duplex for each townhome." Tokos would change this from a duplex to an ADU. Berman also noted on Page 5 of 6 it stated the rental units were priced at "60% median area income" and thought this was phrased wrong. Tokos would change it to "at a price point affordable."

Opponent: Janet Kiger-Hellard addressed the Commission and voiced her concerns on parking. She stated she lived in Portland and saw what happened when population increased. Kiger-Hellard wasn't clear on how many people would be allowed to park at apartment buildings. She was concerned about people having multiple cars at one residence. Kiger-Hellard was concerned about multi-family uses and large gatherings with no parking. She wanted to see this clarified better and asked if the changes were for all neighborhoods or just Nye Beach. Patrick explained this was for all neighborhoods because the City would be complying with the State law that said they had to allow duplexes on lots anywhere single family detached was allowed. He reminded that they could only require one parking space per dwelling unit. Multi-family had other rules for parking and had to supply their own parking in the complexes. Kiger-Hellard reported that she didn't have a problem with development as long as it was done for the betterment of the whole community. She had a problem with duplexes and multi-family developments with large families that didn't have off-street parking allocated for them.

Berman asked for an explanation on the parking requirements. Tokos explained that for purposes of the off-street parking requirements they presently require two off-street parking spaces for single family detached homes, and one off-street parking space for each unit of a duplex. The duplex parking was the maximum they could require by law. They could put together an on-street parking credit for areas where there were fully developed street sections and ample on-street parking. They also had to be sensitive on over parking as well. Tokos reminded that he included an analysis the State did on parking for smaller jurisdictions such as Newport. He noted there would always be people who have a greater abundance of vehicles but this was a modest percentage of the total. They were trying to on balance for those with high and low vehicle demand, and figured out if they had the amount of parking required dialed in right.

Hanselman asked if the on-street parking requirement was only given to specific sizes of cities. Tokos thought there were different recommendations for different sized cities. The State was recommending that medium cities not require off-street parking, but it wasn't a requirement. Hanselman found it difficult that a single family home that was required to have two off-street parking spaces for its one resident had a greater parking requirement than a duplex who had two living residents. Tokos reminded that there were instances in single family homes where there were multiple households living in them and have multiple vehicles. Duplexes tended to be a more modest in size and, to a point, would limit the pressure on parking. What they were seeing practically was that a duplex building really wasn't all that different from a single family detached. Hanselman was concerned about narrow streets with parking and there not being access for emergency vehicles. Having more cars on substandard streets would increase the risk to the health of people in neighborhoods. Hanselman thought they needed to establish which streets would be free of this because many streets in town were so narrow. Tokos noted this was why they framed the code with the six conditions to determine if a parking credit would be allowed. This credit would not be available for a street narrower than 36 feet in width.

No other proponents, opponents, or interested parties were present. Patrick closed the hearing at 8:00 p.m. for Commission deliberation.

Escobar expressed that he was leaning toward not allowing an ADU on a duplex parcel. He didn't have a problem with allowing an ADU on a single family lot. He was concerned about allowing three dwellings in the R-1 and R-2 zones. He then noted that what he was hearing was that they couldn't require two off-street parking spaces for each side of a duplex. He wasn't in favor of the off-street parking options.

Branigan thought they should stick to the minimum for ADUs and duplexes, and not allow ADUs on duplexes. They didn't have any choice when it came to the parking. He was in favor of the additional permit parking if the person couldn't have additional parking on the streets.

East was in favor of a single ADU for a single family dwelling, but no additional ADUs with duplexes. He thought most developments on R-1 lots were big enough that architects would include a single car garage with the setback in the design to get at least two parking spots, one in the garage and one in the driveway. Some duplexes in town had been built with a garage are enough parking in front of it to park the vehicles on the property and not on the street.

Berman agreed with the consensus on ADUs and didn't think there should be three dwellings on one lot. He thought that as far as parking went, they were trying to encourage development that wouldn't pencil out if they required as much parking on-site. There were other locations where the zone only required them to have one parking space for multiple units. He didn't like the off-street parking credit and voted to drop it and vote to have one space per dwelling in a duplex, and two spaces for single family dwellings.

Hanselman didn't think that ADUs were appropriate for duplex lots. The parking was a problem and there needed to be something done. Hanselman felt it was important for developers to be able to develop but also important to not overload streets with parked cars and make problems. He suggested requiring a parking permit for one parking spot on the street.

Patrick thought they should just do ADUs and the duplexes now, and then look at it later if they wanted to add on. He saw situations where they might want to add an ADU with a duplex if there was ground to do it. Patrick wanted to get a matrix put together that gave a list on what they needed to do if they wanted to do add an ADU or a duplex, to know what the limits were. Given the constraints they were putting on off-street parking, he didn't have a problem with this. There would have to be a street that had some room on it to get the credit. If the streets didn't meet the constraints, they wouldn't be able to get the credit.

Berman noted that number 2 of the 6 conditions said the dwelling unit could not be a short-term rental. He noted that there was nothing to prohibit a future owner to offer it as a short-term rental, and asked if at that point they would lose their off-street parking credit. Tokos explained the short-term rental code required owners to provide one off-street parking per bedroom they rented. They would have to provide off-street parking or they wouldn't be able to do a short-term rental, unless they were in Nye Beach.

Tokos reiterated that what he was hearing was there was general support for Option 2 for one ADU for every single family detached. He noted there hadn't been any discussion on townhouses. He asked for the Commission's thoughts. Patrick didn't see how this would work for townhouses to have an ADU. Tokos guessed they would have to be attached. He gave an example of how a project with townhomes would have an ADU on the lower floor and a townhouse on the upper floors. He noted they wouldn't be large. Berman didn't think they should get into it. Patrick suggested waiting until there was a demand for it and someone came in to ask about it. Tokos reiterated that what he was hearing was the Commission was in general support for Option 2, with no on-street parking credit.

MOTION was made by Commissioner Berman, seconded by Commissioner East to make a recommendation to the City Council with Option 2 for accessory dwelling units and no off-street parking credit. The motion carried unanimously in a voice vote.

MOTION was made by Commissioner Escobar, seconded by Commissioner Berman to confirm that the Planning Commission considered the housing initiatives related to development incentives and were comfortable with where they were at, given what was adopted in 2017. The motion carried unanimously in a voice vote.

Berman asked about the public testimony that was received that implied that the County didn't allow an ADU on single family detached. Tokos explained the State required every city to do this and counties were a little bit different.

6. New Business.

A. Citizen Involvement Advisory Committee. Tokos noted there was an opportunity for a Commissioner to be an additional liaison in this statewide citizen committee. There was a House Bill that talked about adjusting State Planning Goal 1 to beef up public engagement. This was a good example of one of the challenges they had with public outreach. Nothing frustrated the public and policy makers more than when they were invited to engage in a public discussions where there was no flexibility to deal with the matter. He hoped that at some point the Legislature would recognize this. Then they wouldn't have to adopt mandates through a public hearing process and invest our time into educating people on what the new mandate was.

7. Unfinished Business.

A. Updated Planning Commission Work Program. Tokos noted there would be three public hearings at the next meeting. He reported the Whaler was doing a neighborhood meeting before their public hearing and this was not something he would be able to work into his staff report.

Tokos explained that the street vacation had been continued to the May 3rd Council meeting and reported that the Port Commission needed to act on this because it was within 5,000 feet of the docks. This would happen on the April 27th. Berman asked if Tokos had talked to the City Attorney about the Commission's concerns on citizen initiated versus Council initiated vacations. Tokos confirmed he had spoken to the Attorney who had reviewed the ordinance that was put together for adoption. He affirmed he was comfortable with how it was laid out. The public benefit was one of the factors the Council could weigh when they were doing a city initiated street vacation. They weighed this when they choose to initiate a city initiated process and they could reevaluate this when it came before them after the hearings with the Commission. The Council was under no obligation to proceed if they didn't believe it was in the public's benefit to do so. Berman noted he listened to the original Council meeting and didn't hear it explained to them. The Council rules talked about a substantial public benefit. Berman saw a difference between a substantial public benefit and a public benefit. He was concerned that the Council wasn't aware of this and wanted it explained to them. Tokos noted that he had done his best to express to the Commission that they could consider the public benefit in terms of the policies, not the statute. In his opinion the applicant's attorney made a mistake raising this issue by saying that a policy making body couldn't consider the public interest. Tokos reported that the City Attorney did address this in writing and included a letter in the Council packet affirming that he was onboard with how the ordinance was set out. Escobar noted that the Council was told that the Commission was precluded from considering the public benefit and ended up having an affirmative vote as a result. Tokos noted there was an affirmative vote with the three conditions they could only impose because they were in the public benefit. The conditions for this benefit included a requirement for a traffic study to be done, as well as a reservation of the public utility easement. Berman wasn't comfortable with this and noted Councilor Collette said that he didn't understand the distinction between

citizen initiated and Council initiated vacations. He reported that he would be writing a letter to the Council for the hearing to give his thoughts on this as a private citizen.

Patrick shared that he sat in on the first Affordable Housing CET Distribution Committee meeting. He reported that he had made a comment to the committee that the it was his opinion that the Planning Commission preferred that they wanted them to get the most bang for the buck out of whatever they had to spend the funds on. Patrick asked if the Commission was okay with this. The Commission was in general agreement with the statement.

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

9. **Adjournment.** Having no further business, the meeting adjourned at 8:29 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant