

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video Conference
April 26, 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.

Public Members Present In Person: Ric Rabourn, and Mike Smith.

Public Members Present by Video Conference: Tim Emery, Beki Hueth, Michael Abbott, Adam Springer, Catherine Briggs, Chis Mastrandrea, Jan Kaplan, Wendy Engler, and Terry Lacaden.

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 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 April 12, 2021.**

MOTION was made by Commissioner Berman, seconded by Commissioner Branigan to approve the Planning Commission Work and Regular Session Meeting Minutes of April 12, 2021 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:02 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 reported a site visit to the manufactured home park and a drive by of the hotel and natural gas facility. Hanselman reported a drive by of the manufactured home park and the hotel. Branigan reported a drive by of the hotel and natural gas facility. 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 1-NCU-21.**

Tokos reviewed the staff memorandum and explained that the application was for an approval to expand a non-conforming 14-unit mobile home park by adding two additional mobile home sites.

Proponents: Adam Springer, attorney for the applicant addressed the Commission. He noted that the two additional spaces would be served by the same infrastructure as the rest of the park, and would meet the required setbacks and spacing.

Berman noted that the area was currently vegetated and asked if they would have to cut down trees to add the spaces. Springer didn't believe there were any trees that needed to be taken down for these spaces. Berman asked if the city had specific restrictions on vegetation clearing. Tokos reported there wasn't anything that specific. He noted that the conversation would get more difficult if in a few more years there was another application to add more units, and these units were to go in an area where it was currently wetlands. It would also be harder for the Commission to show that the conditions had been met because it would go further away from the light industrial designation.

Patrick asked about the detail that said that Oregon limited the park to 15 units, and if this was the State code. Springer reported it was all they applied for and there was plenty of space at the park to install more units.

Opponents: None were heard.

Chair Patrick closed the hearing at 7:20 p.m.

Berman reported he didn't have a problem with the application. Escobar had no problems with proposal. He thought it added doors and didn't change the character of the neighborhood. Branigan didn't have a problem with the proposal and thought it should be approved. Hanselman found everything to be acceptable to approve. East agreed with the other Commissioners and wanted to see it approved. Patrick didn't see any problems.

MOTION was made by Commissioner Escobar, seconded by Commissioner Berman to approve File 1-NCU-21 with the three conditions. The motion carried unanimously in a voice vote.

B. File 2-NCU-21.

Tokos reviewed the staff memorandum and explained that the application was for an alteration/expansion of a nonconforming use to expand a natural gas facility by constructing three new concrete equipment foundations within the existing fenced compound. The new foundations will support equipment, pressure vessels, process piping and a new cable tray.

Proponents: Mike Smith with Norwest Engineering addressed the Commission. He explained that the new equipment would be consistent with what was already on site. Branigan asked if the equipment would be new and not replacing anything. Smith confirmed this was correct.

Chair Patrick closed the hearing at 7:26 p.m.

East thought they should approved the request with the staff recommendations. Hanselman was fine with the project and okay with the process. Branigan didn't have any problems with improvements to the property. Escobar thought NW Natural was a good neighbor and he would had problems approving. Berman agreed. Patrick agreed and wished they could avoid having to do these types of hearings.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar, to approve File 2-NCU-21 with conditions. The motion carried unanimously in a voice vote.

C. File 1-NB-21 / 2-CUP-21.

Tokos acknowledge the additional public testimony that was received after the packet was distributed from Jan Kaplan, Wendy Engler, and the Oregon Shores Conservation Coalition. He noted the Coalition requested that the record be left open for seven days. Tokos explained that because this was an evidentiary hearing the Commission had to grant that request. There would be a seven day open record period to May

3rd, a seven day rebuttal period to May 10th, seven days for final applicant arguments to May 17th, and then it would come back for Commission deliberation and a decision on May 24th.

Tokos explained that the application was for a conditional use permit and design review under the design guidelines for the Historic Nye Beach Design Review District to construct a 25-guest room hotel with a café, bar, office and lobby space (identified as “The Whaler at Nye Beach”). Two (2) existing single-family dwellings would be removed.

Tokos reported that the letter from the Oregon Shores Conservation Coalition voiced concerns about the geologic hazards in this area. He reviewed an aerial image with the Commission that displayed the geologic hazard areas and showed how this property was outside of the area.

Tokos noted the email from Wendy Engler complimented the applicant’s request but voiced concerns about sidewalks. The challenge was the existing standard called for a five foot sidewalk on each side. Tokos explained that the standard for the collector streets would change possibly when the Transportation System Plan was updated. He thought that a five foot sidewalk could fit, but a seven to eight foot sidewalk would be difficult.

Berman asked about the written testimony concerning the area to the north. He asked if the work the Commission did to preempt a larger mansion being built in this area alleviated public concerns for this type of development migrating to the north to the Nye Beach turnaround. Tokos explained that this depended on how the remaining properties were cobbled together for further development. The rules allowed a hotel/motel to come in, meaning they could see a building of some significant size. This would have to go through a design review and the Commission would have a chance to take a look at it. Given where this project was located at the far west corner of the Nye Beach Overlay, the Commission had more cause to say it was consistent with properties to the south and east that included the Whaler, Elizabeth Inn, and the Performing Arts Center. When looking at a consistency with the character of the area they had some flexibility with this to define what that was and make that something short of the entire Nye Beach Overlay. They had tools to address this under the conditional use standards. Berman asked if they should be looking at some change so they didn’t have to do this. Tokos thought that was a different conversation they should have at another meeting.

Proponents: Ric Rabourn with Hallmark Inns and Resorts addressed the Commission. He acknowledged that Michael Abbott, Chris Mastrandrea, and Beck Hueth were present to answer questions. Rabourn explained the current urban renewal agreement from when the Whaler purchased the property in 1992 required them to submit a design review by July 2021, to submit for building permits by July of 2025, and to be up and running by July of 2027, or the City had the right to come back and repurchase the land from them at a lower cost. This meant there was incentives to get the project done.

Michael Abbott, the architect of the project, addressed the Commission. He reviewed his experience designing in coastal communities which he explained helped him when designing this project. Abbot reported that when they started the design they reviewed and followed the design guidelines. He shared an image of the site plan for the project and highlighted the important aspects of the design guidelines that they used.

Berman asked if they considered a cross walk on the north side to get to Don Davis Park. Abbot reported that they worked with Tokos initially on where the crosswalks would go and Elizabeth Street was the most ideal location. Berman wanted it noted that there would be people walking across Olive Street to get to Don Davis Park. He asked if they would have any EV charging stations. Rabourn explained they would be installing them but that they hadn’t determined the exact number and their locations. Berman asked if the Fire Marshall had reviewed the designs. Abbott reported they had a Fire Marshall review a year before and they were informed. Berman asked if they planned to have Dolphin Street be a through street. Rabourn explained that they would participate in whatever this would be. During the community meeting, it was

determined that it was unanimous that neighbors didn't want a through street and only wanted an emergency access road. Rabourn noted this still needed to be determined.

Branigan asked if the food and prep area would be a full scale restaurant. Rabourn explained it would be a lobby restaurant, not a full scale restaurant. This would be a lobby area where people could order food and drinks, but not a traditional restaurant. It would have living room and veranda seating. Branigan asked if there would be a bar area seating. Rabourn said the lobby would be multi-use for food, drinks and lounging. Branigan noted that the majority of vehicles in Newport tended to be pickup trucks and he didn't think they would fit in the parking spaces designed. He asked if they could accommodate all of these larger vehicles. Rabourn reported that they were proposing the expansion as an individual project but the existing Whaler Motel parking was available. They would go back and address the parking spaces that were requested. Rabourn pointed out that they didn't count the on-street parking in their proposal. They were allowed to use the parking credits because there were in the Nye Beach Parking District, but they chose to provide their own parking instead.

Hanselman asked if the ground level was at street level or elevated above the street. Abbott explained that the ground level was the living room and cafe. This would be approximately a four to five foot level change down to the street on the veranda area. Abbott explained it was four to five feet around the corner and a little lower on the Dolphin Street side.

Escobar asked if it was necessary to have the people parking in the exist parking lot be able to go through the Whaler and then exit on Dolphin Street. Rabourn explained they would exit on the north and the south sides. The concerns were about having it be a through street. The north end would be developed as shown and the south would just be an exit.

Patrick noted that Dolphin Street was going to be difficult for ADA access. Rabourn explained that if this was true the ADA access would be done through the lobby and it would be open to the public. Hanselman asked if the walkways from Olive Street up to the lobby area would be ramps instead of stairs. Abbott clarified they would be stairs because the ramps would take away all of the landscape area. They provided the ADA requirement for accessible means in from the side and the walkway between the exiting Whaler and the new expansion. Hanselman thought signage would be a great idea for this.

Berman asked if the two existing buildings that were being demolished were short-term rentals, and if their licenses would be closed because of this. Tokos conformed this was correct.

Proponents: Marineau read the testimony from Jan Kaplan and Wendy Engler into the record.

Wendy Engler addressed the Commission and expressed her thankfulness that the owners had engaged with the neighborhood. She wanted the Commission to consider the sidewalk width. She felt the standards would be changed at some point in the future and asked them to accommodate a foot or two for sidewalks. Engler also thought there should be a passing lane on the sidewalks in certain areas to allow people to get out of each other's way when passing each other.

Berman asked for Engler's opinion on the encroachment north of this location and if she saw any potential problems they should be addressing. He noted this was separate from this property. Engler believed that the Commission had endorsed that they needed to address the vision of the area, but the Vision 2040 Committee wouldn't take this on. She thought that the minutes said that the Commission would take this on if it didn't find fertile ground with the Vision Committee. Engler felt a revisioning would be helpful. She thought that if 50 foot buildings were built on the narrow streets with many small buildings, it would be the kiss of death for any remnant for the heart of Nye Beach. As long as there was a 50 feet height limit there would be a possibility there could be high rises.

Jan Kaplan addressed the Commission and echoed what Berman, Norm Ferber and Engler were talking about. He stated he wasn't opposed to this project, but thought there needed to be a way for the Commission to approve this and also make it clear that they weren't setting a precedence. In the long term they needed visioning and to consider the impact so they could be friendly to developers but not give our homes to them.

Tim Emery addressed the Commission and wasn't opposed the building itself but was opposed to the certain regulations that were set in place to protect the height and length restrictions of the building without having to get a variance. He thought the building could be beneficial to the community. Emery felt that if they kept it to 35 feet it would set precedence for future development.

Catherine Briggs addressed the Commission and noted she went to the community meeting and thought the architect and developers did a good job of explaining what they wanted to do. She had the same concerns with Engler about moving north with the same scale. Briggs wasn't sure Dolphin Street should be improved all the way to the south end and questioned if it could be a partial street.

Rebuttal: Rabourn noted that the sidewalks had been discussed after the community meeting and they would like to widen the sidewalks where it was available. There were easements and landscaping requirements that needed to be worked out, though.

Tokos reported that when they received testimony to leave the record open, State law required them to allow anyone to present additional testimony. The local hearings authority would grant such request by continuing the public hearing.

MOTION was made by Commissioner Branigan, seconded by Commissioner Berman to continue the hearing to May 24, 2021. There will be an open comment period that closed at 5 p.m. on May 3, 2021, then a seven day rebuttal that closed at 5 p.m. on May 10, 2021, then final arguments that closed at 5 p.m. on May 17, 2021, and a hearing to begin deliberations and considerations on May 24, 2021. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.

7. **Unfinished Business.**

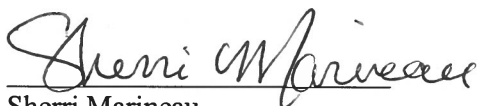
A. **Updated Planning Commission Work Program.**

Tokos pointed out that the joint work session with the City Council would be held on May 3rd and the Transportation System Plan would be reviewed on a work session. He noted that they needed to be add the May 10th meetings back in order to do the final orders for adoption. Berman requested that the work program dates be extended past June. Tokos would do this.

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

9. **Adjournment.** Having no further business, the meeting adjourned at 8:52 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant