

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers by Video Conference**  
**May 24, 2021**

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

**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 7:00 p.m. On roll call, Commissioners Hanselman, Branigan, Berman, Hardy, Escobar, East, and Patrick were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of May 10, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Regular Session Meeting Minutes of May 10, 2021 as written. The motion carried unanimously in a voice vote.

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

4. **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. None were heard. 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-CUP-21.**

Tokos reviewed the staff report and explained that studios were referenced generally as entertainment oriented retail use which were permitted outright in a C-2 zone and therefore eligible for a conditional use approval in a W-2 zone.

**Proponents:** Steve Palmer addressed the Commission. He explained that the studio would be a history themed studio with costumes and props for vintage photos. Palmer showed examples of the photographs that would be taken. Berman asked if they would be offering any traditional photo shoots. Palmer explained this was mainly for tourists and would be themed photography.

**Opponents:** None were heard.

Hardy didn't have a problem with the idea. East thought it would be fun and good addition. Escobar didn't have a problem with it. Branigan thought it would be entertaining. Berman thought it was a perfect fit with the tourist area. He thought they could clean up the terminology in terms of personal services and look at the provisions in the future. Berman was in favor. Hanselman was in favor and thought it was good idea for families. Patrick agreed with Berman's thoughts on personal services and thought that instead of making people go through the process they should be able to do this without a Commission review.

**MOTION** was made by Commissioner Escobar, seconded by Commissioner Berman to approve File 4-CUP-21 with conditions. The motion carried unanimously in a voice vote.

**MOTION** was made by Commissioner Escobar, seconded by Commissioner Berman to approve the Final Order and Findings for File 4-CUP-21 with conditions. The motion carried unanimously in a voice vote.

**B. File 1-NB-21 / 2-CUP-21 (Continuation).**

Tokos reminded that the public hearing was a continuation from the April 26th hearing. The Oregon Shores Conservation Coalition had requested an open record period, but they decided not to submit any further testimony. They were confused about the location of the geologic hazards area on the side, and the discussion about Dolphin Street being an alternative north/south route. Tokos reported there had been no additional testimony submitted. Hallmark had taken this time to address the concerns that had been raised by members of the public to put in pedestrian turn outs on property frontage. They also addressed conditions on the staff report to address parking issues, to do stamped crosswalks, and to do artistic concrete work in the veranda area. They submitted updated plans that were included in the Commission's packet. Patrick asked if the city had a problem with stacked concrete instead of pavers. Tokos reported they would work with Hallmark on this.

Berman wanted to propose that they add a condition to require a crosswalk be constructed from the northwest corner of Dolphin Street across to Don Davis Park. He thought the traffic on Coast Street to Elizabeth Street could be substantial for tourists walking across the street. Branigan noted the applicant's drawings showed a crosswalk on the western side of the addition. Berman noted that he wanted to see a crosswalk like that but on the other end of the facility across from Don Davis Park. Patrick pointed out that there was a crosswalk at Cliff Street and on Olive Street. Tokos noted if they added a crosswalk condition they would need to put in a clause to say it was subject to approval by the City Engineer. Patrick didn't think it was necessary because there was one a block away. He was concerned about people coming around the corner and not being able to see a pedestrian. Branigan agreed that it didn't need to be added. Hardy agreed with Patrick as well.

Hanselman asked if the applicant accepted the challenge to added EV stations and thought these should be included in any new development. Tokos thought there needed to be code work done to be able to give the criteria to require this work going forward. The criteria was not available to them for this application.

Hanselman thought the crosswalk at Cliff Street could be moved to Dolphin Street. He thought there would be more foot traffic on the north side of Olive Street and crossing at Cliff Street seemed like a reasonable place. He thought having an additional one at Dolphin would be overkill. Escobar agreed with Branigan and Patrick's thoughts on the crosswalk. East thought the crosswalk at Cliff Street was more sufficient. Having a crosswalk directly out of the park would be a little bit of a problem and he thought the one at Cliff Street would suffice.

Patrick open the hearing for deliberations at 7:25 p.m.

Hanselman thought they did a good job putting the design standards into the project. He had concerns with the building because it was in the Nye Beach Overlay. Hanselman didn't agree with the staff report stating that the four buildings exceeded the standards of the Nye Beach Overlay because the buildings were built before the standards were in place. He didn't think the decision should be made on buildings that were outliers of the Nye Beach design standards, and he was conflicted on the project as whole.

Berman thought it was beautifully designed. He didn't agree that it wasn't that exception given the buildings that were south of it. Berman thought they needed some kind of effort to make sure a developer didn't buy lots on Cliff Street and build something like this. He thought it kept with the general neighborhood feel and was in general support.

Branigan was in favor and thought they did a good job. He thought the addition would benefit everybody and they should move forward with it.

Escobar was impressed with how the applicant reached out to the community before the hearing. Most community members had modest concerns but were in favor of the project. Escobar thought that given the work put in and the lack of opposition with the project, he was in favor.

East thought the project was a perfect fit. He agreed that there needed to be some language that would not permit these types of buildings in Nye Beach.

Hardy thought the project had validity and didn't conflict with Nye Beach. She didn't have a problem with it. Hardy confirmed that she had reviewed the materials from the previous hearing in order to vote on the decision.

Patrick thought it was on the edge of the zone and made a transition. He was in favor of approving it.

**MOTION** was made by Commissioner Branigan, seconded by Commissioner East to approve File 1-NB-21/2-CUP-21 with conditions. The motion carried in a voice vote. Commissioner Hanselman was a nay.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Final Order and Findings for 1-NB-21/2-CUP-21 with conditions. The motion carried in a voice vote. Commissioner Hanselman was a nay.

5. **New Business.** None were heard.

6. **Unfinished Business.**

7. **Action Items.**

A. **Initiate Legislative Process to Amend the Newport Zoning Ordinance Related to Food Cart.**

Tokos continued the review of the draft amendments from the work session meeting. He reviewed the amendments to the definitions, and mobile food units sections. Berman noted that "water dependent" had been left out of the mobile food units section. Tokos explained that this had been left out on purpose because they would have a hard time arguing with the State that food carts were acceptable on water dependent properties because it was a limited commodity on the Bayfront.

Hanselman asked if there would be restrictions on the location of food carts from other food establishments. Tokos explained there wouldn't be unless they added language saying they needed a signoff from a neighboring owner. He could play with the language to tailor it to say if they were setting up next to a brick and mortar they needed their consent. Berman thought it was fairly arbitrary and thought the language needed to be either tightened up or removed. Hanselman was more worried about the competitiveness and wanted something worked into the language. Tokos reminded that the discussion was for the initiation of the legislative process and the Commission would have a chance to review the changes. He would add different options for this in the language. Barman suggested having it broken out as options A, B and C.

Tokos noted that generators could be for one or two trucks, but not for a pod. Branigan asked if cable protections had yellow lines or if they were just black. Tokos would check on this.

Berman asked for clarification on the 10 feet for generators. Tokos explained that it was 10 feet from other units. Montague thought this would be a lot for a standalone unit, but not for a pod. Patrick asked what fully screened meant. Tokos explained this meant screened from view. Montague offered to reach out to the people building carts to see what the screening was. She reported she sent specs to Tokos to see

if they were permitted. Montague was confident the generators weren't loud and would meet a lot of the EPA standards.

Tokos reviewed the signage, awning, and receptacles language. He noted he could clean up the language to say the receptacles were one for every two units. Tokos asked for the Commission's preference. Berman thought everyone should have their own receptacle. Hanselman agreed.

Tokos reviewed the requirements for mobile food unit parked restrooms next. Montague reported that a porta-potty filled the restroom requirement for the County.

Tokos reviewed the mobile food unit pods section next. Hanselman asked what the cost would be to a vendor to set up a pod. Tokos explained that this was more expensive and would be similar to a brick and mortar restaurant set up. This could be a situation where the owner rented out spaces to a vendor. The draft code was set up so that two trucks didn't trigger the costs, but over two would trigger the costs. The Commission had to determine at what point a pod became a destination like a restaurant, and when they needed required seating. Patrick asked if they were requiring a certain amount of seating. Tokos didn't add anything to require this. It just said one parking space per every 150 feet of seating.

Montague was comfortable with the requirement for pods. She wanted to see it be four, not three, and questioned how they would connect into the sewer system. Tokos explained that the site would be developed with connection points at specific locations. Montague thought this seemed reasonable and she would want this. Patrick asked if they required the bathrooms for pods. Tokos noted a pod had to address all the things above and as soon as there was seating it was considered a restaurant. Berman asked if an owner or pod owners would apply. Tokos thought an owner would submit a pod application and then lease to vendors. A vendor would apply for a mobile unit.

Berman asked what would happen if they set the number to four in a pod, and someone pulled out. He asked how it would be enforced. Tokos explained this would just mean that there would be a spot open to lease to a new vendor. Berman questioned if the pods would be permanent or more transient. Tokos confirmed that a pod would be more permanent.

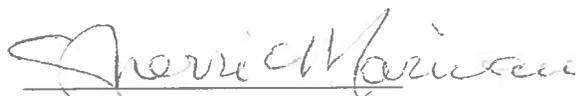
Tokos asked for the Commission's thoughts to see if they were comfortable initiating the process. Escobar thought that they should reconsider making a pod be a minimum of four units, not three. Patrick was okay with two. East thought four was good.

**MOTION** was made by Commissioner East, seconded by Commissioner Berman to initiate the legislative process to amend the Newport Zoning Ordinance related to food carts. The motion carried unanimously in a voice vote.

8. **Director Comments.** Patrick reported he would not be attending the first meeting in the July. Tokos reminded that there would be no meetings on June 28th.

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

Respectfully submitted,



Sherri Marineau  
Executive Assistant