

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
July 25, 2022

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

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

Public Members Present: Bill Rowley, Jeff Bertuleit, Tom Hasting, Robert Hoefs, Traci McDowall, Steve Perlenfein, Jeff Keane, Michael Smith, Janet Wood, Dale Webster, and Jason Asch.

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 Patrick, Branigan, Hanselman, Berman, Escobar, and East were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work Session Meeting Minutes of June 13, 2022.**

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work Session meeting minutes of June 13, 2022 as written. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of June 13, 2022.**

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Regular Session meeting minutes of June 13, 2022 with minor corrections. The motion carried unanimously in a voice vote.

C. **Approval of the Planning Commission Work Session Meeting Minutes of July 11, 2022.**

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work Session meeting minutes of July 11, 2022 with minor correction. The motion carried unanimously in a voice vote.

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

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

5. **Public Hearings.** At 7:01 p.m. Chair Patrick opened the public hearing portion of the meeting. Chair Patrick acknowledged the statement of rights and relevance. He asked the

Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Branigan reported a site visit. 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-CP-22 / 2-Z-22.

Tokos reviewed his staff report. He noted the proposed changes for the area east of Ferry Slip Road to change it from I-1 to C-3 would accommodate residential over commercial and require industrial uses to go through a conditional use process.

Tokos acknowledged the letters submitted as testimony from Chuck Forinash, Fred Yeck, Tom Hastings, Terri McCulley with Barrelhead Building Supply, and Rachel Taylor with Anheuser-Bush, LLC. Anheuser-Bush wanted to see the area changed to be C-3 zoning as opposed to a C-1. They recognized that if a C-1 was applied, the property would be a nonconforming use, because of its warehousing use. They also recognized that a nonconforming use could continue to exist and operate. Tokos noted these changes in no way shape or form would put an existing business that's operating out of business. He explained when a property went from conforming to nonconforming there were impacts associated with this. When they wanted to expand they would have to do a review by either staff or the Commission.

Tokos reviewed the code changes that were included. He then covered the changes to the South Beach State Park Comprehensive Plan Map. Tokos explained this was for the maintenance facility at the State Park which had a high density residential Comprehensive Plan Map designation and could be changed through a normal legislative process.

Tokos noted that the Fair Housing Council of Oregon wanted to position the 2.3 acre piece for redevelopment. The city wanted to facilitate other types of development in the corridor, but they needed to be cognizant that this was a public hearing and an opportunity for people to share their views on the changes. Tokos recommended the Commission take testimony without taking action, then continue the hearing to August 22nd so they could do a work session meeting on August 8th to see if they wanted to do any adjustments. The city could then provide notice on how things were modified and hold a second public hearing. Tokos reminded that the Commission would be making a recommendation that would go to the City Council.

Berman asked how the changes by the South Beach State Park would impact or relate to the future island annexation. Tokos explained there was an annexation they would be pursuing at the end of the year that would bring in the remaining unincorporated properties down to 50th Street. The city could annex these properties that were surrounded without consent. This process would annex most of the properties in as a light industrial zoning designation. This would allow for more intense industrial development than was currently allowed under the County's rules because they couldn't connect to sewer. These changes would not allow the uses they talked about in those zones such as a new self-storage, vehicle impound yard, recycling, or wrecking yard. Any existing use of this nature would come in as nonconforming. Nonconforming uses could change, alter or expand but they would be subject to a review. Berman asked if all the property coming in would be I-1 and if it would be reviewed during the annexation process. Tokos explained they could review it during the annexation process but reminded the annexation wasn't in front of the Commission currently.

Opponents: Bill Rowley with Rowley's Storage LLC at 4822 S Coast Hwy addressed the Commission. He reported that he owned a towing company and storage facility in South Beach.

He felt he was being singled out and didn't understand why they would allow a truck repair business but not a towing company. Rowley explained they wanted to expand their storage facility that had been there over 30 years and didn't know why they wanted to preclude one or two industries at the location. He noted the changes to 32nd Street from light industrial to commercial didn't have any use for this. This would mean they would have to put in retail and there wasn't any real parking there. It worked better as an industrial use. Commercial wouldn't be very conducive to that piece of property.

Jeff Bertuleit of 354 SE 2nd Street addressed the Commission. He noted that the 15 foot setback for parking wouldn't allow for vehicles that were 20 feet long and he wasn't sure where they would put cars with this requirement. He thought that changing the Aquarium property on Ferry Slip Road to C-3 was a good idea. Bertuleit noted that retail shops were going by the wayside because of online shopping. They needed to look at a planned industrial commercial development section here instead of it being a cookie cutter change because they were larger pieces of property. Bertuleit noted that the I-1 listed a lot of uses that wouldn't be allowed. He thought nobody wanted to put in a building that would be underutilized. Bertuleit highly recommended that they either modify the plan to reflect what the proposal was or keep it like it was, which is preferable to him. He pointed out that for his property the 15 foot landscaping requirement had some ramifications. Requiring 15 feet of landscaping on 600 feet of frontage meant he had to put in 57 by 600 feet of landscaping on top of the 15 feet that was already there to be able to comply. Bertuleit was concerned about what the landscaping requirement meant for larger properties. He thought that if they wanted to have a nice 15 feet of landscaping and widen streets the city should buy the right-of-way and not require taxpayers to fund it. Bertuleit pointed out that the property owners who were present at the hearing represented millions of dollars of property and should be considered. He thought they should have a middle lane down US 101 if they are going to put in sidewalks or bike lanes. Bertuleit didn't know how they be able to put in bike lanes. He was happy that the record would be held open. Bertuleit thought owners shouldn't of had this kind of situation happen to them. He felt Jet Planning didn't do their homework and the report wasn't defensible or realistic.

Tom Hastings with Hasting Coastal Woodworks at 3333 SE Ferry Slip Road addressed the Commission. He reported he was one of the persons who submitted the letter as testimony. Hastings had concerns on changing the C-1 on his property which currently had an art gallery with some light manufacturing and wholesale in the back. The changes meant both weren't allowed in the C-1. Hastings noted that nobody talked to him or other owners about the change. The change would make him have to apply for a conditional use or lose property value if he tried to sell. Hastings thought moving to a C-3 would allow them to continue to operate and would be acceptable to him. To go to C-1 would put him out of business.

Robert Hoefs at 3211 S Coast Hwy addressed the Commission. He reported he was the owner Off the Hook Restaurant and Newport Candy. He also owned the land that the Auto Doctors mechanic shop was on and the storage building next to it for his candy business. This building was a web steel building and was designed to be a storage building, not for retail shops. Hoefs reported his father had fought this zoning in 1982, and his family owned the property since the early 1970's. He questioned if his candy shop and restaurant fell under what they were trying to change the zoning to. Tokos confirmed they did, and the Auto Doctors would be nonconforming as a mechanics shop. Hoefs noted that the building was built for the Auto Doctors use and had to stay a mechanic shop throughout its life. He noted that he was the only one in the area that had built a property to meet these standards. If they changed the parcels to C-1 the properties weren't big enough to build a new building and have parking. Hoefs didn't understand where they were going

with the C-1 when light industrial worked. He felt those who didn't meet the light industrial zoning should have to go through a conditional use approval to function in that zoning instead of changing the zoning. Hoefs thought they couldn't build on these properties to meet the standards for a C-1.

Tracy McDowall with Yaquina Law addressed the Commission. She reported she was there on behalf of her clients Pat Tryon, Robert Tryon and Lauren Tryon who currently owned property that was zoned I-3 that was being changed. She was happy that the hearing would be continued because she would have requested it. Her clients opposed any rezoning of the property owned by her clients including the properties being changed from I-3 to I-1. McDowall believed that the proposed change if put into effect would constitute a taking under measure 49 and cause many other issues for her clients and the city. She noted that during the course of the work they stated that the stakeholders were included in the conversation on the changes, but her clients had never been contacted. There were only three properties zoned for heavy industrial use in the city. McDowall questioned how the city would continue to meet the needs of heavy industrial with these changes. This change does not support continued development in our area. It forced people to go out of the area to get things such as concrete and rock to get these things. McDowall noted that the compliance audit done by Jet Planning was the same company who worked as a planner privately for Landwaves on the Wilder development, and for OSU on their student housing project. She thought it was hard to say that Ms. Decker with Jet Planning didn't have a conflict when she performed this work and made these recommendations. Jet Planning was making a recommendation to the city and couldn't be unbiased in the development of the city in this area. McDowall noted her client's property was zoned for heavy industrial I-3 use long before any residential development took place in the area. Wilder did its trading of property to move the residential area development next to the industrial property. McDowall stated that Wilder and Jet Planning knew her client's property had an asphalt company that was operating there prior to this recommendation. Her clients purchased this property many years ago, knowing it was zoned for heavy industrial use because they owned a concrete plant. This proposed change would stunt their growth and prevent them from serving the community. McDowall stated that Wilder was also instrumental in redrawing the city limits to accommodate what they wanted. Her clients donated the road access for the area across from their property free of charge, and negotiated an easement with the city for drainage that ran through their property. By changing the property zoning from I-3 to I-1 they were preventing her clients from going through with their plans. McDowall thought that there was no valid reason for the city to rezone her clients property, there was no public necessity, and the general welfare of the community did not necessitate it. She thought there were no mapping errors related to this property. The changes would cause her clients a loss of property value, loss of planned and intended use, and loss of the flexibility they relied on when they purchased the property.

Jeff Keane addressed the Commission. He reported he represented Jeff Perlenfein who owned property that was included in the proposed changes. Keane stated that they objected to the changes and felt the property was being used effectively as industrial. They bought the property knowing it was light industrial and were attempting to use it that way. Keane felt the city wanted to rezone a building for commercial when there wasn't a need for commercial use. He questioned the nonconforming process and what it meant for the city versus the property owner to do this. They were concerned because they didn't know what this was and what they would have to do as nonconforming. Keane felt that whenever someone went before the Commission to make these types of changes they were rarely approved. Right now the property was used to house trucks that were displaced from the revitalization land. Keane questioned where these trucks would go if this was changed. He felt this would also result in a potential loss of jobs. When they bought the

property it was industrial and they expected it to stay industrial. Keane noted the loss of the use of the land meant it would just sit there. He didn't believe they needed to compromise the land for commercial at all.

Michael Smith addressed the Commission. He reported that he represented the South Bay Industrial Condominiums at 3025 SE Elm Street where he owned two of the units. Smith noted when he purchased his property it had a preexisting approval by the city, county and Owners Association as a watchman's residence. The changes would make this a nonconforming use and would substantially impact the property value and use of the property. Smith opposed the zoning change and didn't see the building being suitable for another use. The zoning change seemed irrelevant other than the negative impact on the unit holders. Smith didn't see the buildings being changed to commercial retail use. They seemed to function well under the current zoning.

Janet Woods of 138 SE 35th Street addressed the Commission. She reported she lived behind Barrelhead Supply. When they bought the property they had to prove conforming or nonconforming use approval to get residential lending. Woods noted that when she refinanced three months ago the city hadn't talked to her about the upcoming changes. The change would affect her home value. Woods noted that some property owners didn't get the notice about the changes and she had to share it with them. The improvements would cause her to lose parking spaces and she didn't want to be commercial. The value of her home was residential based and when she spoke to a home appraiser they expressed concerns about how the property would be assessed with the zoning changes.

Commissioner Escobar left the meeting at 8:12 p.m.

Dale Webster with the Newport Marine and RV Service at 4354 S. Coast Hwy addressed the Commission. He noted that their property wasn't affected by this yet but thought it would be coming their way soon and he was against it. They had retail, storage and automotive uses at their properties. Once the changes were applied to his property they would be nonconforming and he was against it. They did a lot of work for the Hatfield Marine Science Center, and the State Police, and the changes would chase them out of the property and there would be nowhere else to go. Webster restated he was against the changes.

Robert Hoefs addressed the Commission again. He stated he owned the Newport Candy shop since 1989 and Off the Hook Restaurant since 2017. Hoefs noted that before Covid he had many employees and now they are shorthanded. He felt that more commercial shops were needed, and there were too many short-term rentals and not enough houses for staff members in Newport and throughout the state.

Janet Woods addressed the Commission again. She stated that housing was tough in Newport. She questioned why they were changing land to commercial when they needed affordable housing.

MOTION was made by Commissioner Berman, seconded by Commissioner East to continue the public hearing for File -CP-22 / 2-Z-22 to the August 22, 2022 hearing date. The motion carried unanimously in a voice vote.

Berman requested that the Commission be provided a map that indicated where the property of the public who testified was located. Tokos would do this.

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

7. **Unfinished Business.**

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

Tokos noted the updates to the work program that included the changes to the projected public hearing dates. He noted that the updated camping ordinance would be coming back to the Commission for review so they had the same information as the City Council.

Berman asked for the status of the Lighthouse to Lighthouse project. Tokos explained this was an established trail connection down to Oceanview Drive on the west side of US 101. It was important to get the Yaquina Traffic Study into the Comprehensive Plan so Federal Highways knew that it was something that people were generally supportive of. The city had a joint application with the BLM that was pending for a \$4.7 million project. The city would know in the fall if it was something they would accept.

Tokos noted the land swap with Boston Timber was finally going to a hearing with the County in September or October. They were trying to get a firm date. The County modified the proposal a little bit so it had to come back to the Commission.

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

9. **Adjournment.** Having no further business, the meeting adjourned at 8:53 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant