

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
September 23, 2019

Planning Commissioners Present: Gary East, Lee Hardy, Bob Berman, Mike Franklin, Jim Hanselman, and Jim Patrick.

Planning Commissioners Absent: Bill Branigan (*excused*).

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 7:00 p.m. On roll call, Commissioners Hardy, Berman, Franklin, Hanselman, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of September 9, 2019.

Commissioners Patrick and Berman noted corrections to the minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to approve the Planning Commission work and regular session meeting minutes of September 9, 2019 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.**

A. **Appointment of a New Planning Commission Advisory Committee Member.**

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to appoint Greg Sutton as a Planning Commission Advisory Committee Member. The motion carried unanimously in a voice vote.

Commissioner East entered the meeting and 7:02 p.m.

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. 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-Z-16.**

Tokos reviewed his staff report. He noted that the maps presented were much more accurate than the 2009 maps. Tokos noted the FEMA did an audit on August 28th and gave changes to the City, which were part of the new code. He noted that if the City didn't adopt the amendments, FEMA would revoke the ability

for properties in the City to have Federally subsidized flood insurance. Tokos reported that the maps would go into effect on October 18, 2019.

Berman asked since the FEMA changes were based on the DLCD model ordinance, would the codes be different in Washington state or would they be universal. Tokos thought it was most likely a universal code. There would be minor differences in different states. Berman asked why there was a change to drop notification to Lincoln County. He thought they should be notified. Tokos said the City was directed to make this change by FEMA. The City would still provide notification to Lincoln County because it was an adjacent community.

Public Testimony:

Mike Fielding address the Commission. He questioned the major change to the maps in the South Shore development that made changes in the areas with the new concrete wall barriers. He asked how they handled any changes in elevations for the flood zone. Tokos said as far as the new mapping that related to this subdivision, the boundary of the earthwork was outside of the flood zone.

Hearing closed at 7:20pm

East asked if everything had been addressed that was noted on the FEMA audit. Tokos said he believed it had. He noted there might be some minimal changes that would be done with the City Council. Tokos noted that one change he requested was to use the City's definition on water dependent uses. FEMA hadn't indicated yet if the City could do this.

Hardy spoke about a specific unit in a multi-unit complex that needed to be redeveloped. She asked if this would be clearly presented in the ordinance or would the City rely on interpretation. Tokos thought the ordinance would be clear and was exactly what needed to be done with this particular unit. When dealing with damage to an attached housing unit in a multi-unit complex the options for the specific unit become more limited with map changes. This would be because they would be dealing with existing development on either side of the unit that the City had not control over. Tokos explained this was flagged as part of the audit and they would be looking at it as part of changes to substantial damage. He explained it might be a no issue item, but the rules would be clear.

Berman agreed that FEMA was being a little unreasonable but couldn't run the risk for properties not being able to get flood insurance. Franklin didn't have concerns. Hanselman was glad Tokos wanted to expand the water usage appendix. The City needed to make sure people were protected with flood insurance.

Patrick questioned if there could be a parallel definition and add the City's own language. Tokos said he would look into what could be done.

MOTION was made by Commissioner Franklin, seconded by Commissioner Berman to approve File No. 4-Z-16 and forward a favorable recommendation to the City Council for amendments to NMC Chapter 14.20, Flood Hazard Area. The motion carried in a unanimous voice vote.

B. File 4-Z-19.

Tokos reviewed his staff report. He noted that there had been a change since the Commission reviewed this discussion in their work session meeting. The change was to exempt ADUs located entirely in an existing structure from the design standards in the Nye Beach Design Review District. Tokos noted the City was obligated to make the changes to the code by the end of the year.

Berman asked why the City wouldn't change the Nye Beach Overlay to add an exception for ADUs rather than doing it in this chapter of the code. Tokos reported the change was in the Nye Beach Overlay. Berman asked what else would be coming to the Commission as far other House Bills. Tokos reported that the

provision that obligated the City allow a minimum amount of duplexes in single family zones would be coming forward. There was an option to allow more than duplexes in single family areas and go up to fourplexes. If they did this it would exempt the City from certain analysis. Tokos noted that there was a question on how to apply this in planned developments such as Wilder and would be on the list on how to apply it to the rules. Patrick noted this would be more difficult for the substandard lots in Nye Beach as well.

Hardy asked if the new rules could be imposed on subdivisions with their own pre-existing CC&Rs. Tokos said there was a whole section in the House Bill that addressed that. If preexisting CC&Rs prohibited anything other than single family detached, prospectively it would prohibit CC&Rs from being put into place for new CC&Rs. Patrick asked if the City had records of CC&Rs. Tokos said no, CC&Rs were private and it was up to the property owner to know what the covenants were for their property and how to apply them.

Berman asked for an explanation on what an ADU "attached to garage" was in Section 14.16.050(E). Tokos explained this was when an ADU was attached to a "detached" garage. He noted that ADUs could be attached to a primary dwelling or detached from them. Berman requested this be clarified. Franklin thought the garage was acceptable in this section. Patrick requested a clarification on an ADU taking up the whole floor of a building and a whole floor of a garage. Tokos said this was structured to the model ordinance and the allowance to go over 800 feet was specific to the primary dwelling. Patrick felt this made sense. Tokos noted that the current ADU rules allowed one ADU for every dwelling unit and it would be changed to "per property". Hardy asked if an ADU could be added to a planned unit development for a townhome. Tokos said if it was a conventional townhouse, yes. In planned developments, it would be a question for the State on what they could do.

Public Testimony: None were heard.

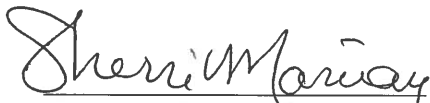
Hearing closed at 7:42 p.m.

Hanselman thought they were being lead through the process by the State and the changes were required. He was happy to limit one ADU per parcel. Franklin had not comments. Berman thought the changes were well planned and thought out. Hardy felt the City was going to be forced to do something they shouldn't. East didn't have any problems. Patrick thought the discussion on fourplexes would be interesting and was concerned about splitting the utilities for ADUs. He was willing to forward it to the City Council.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to approve File No. 4-Z-19 and forward a favorable recommendation to the City Council for amendments to NMC Chapter 14.16.050 and 14.30.050, Accessory Uses and Structures. The motion carried in a voice vote. Hardy abstained.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 9:45 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant

