

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers**  
**August 8, 2022**  
**6:00 p.m.**

**Planning Commissioners Present:** Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and Bill Branigan.

**Planning Commissioners Absent:** Gary East (*excused*).

**PC Citizens Advisory Committee Members Present:** Dustin Capri.

**PC Citizens Advisory Committee Members Absent:** Greg Sutton.

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

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Potential Changes to South Beach / US 101 Commercial Industrial Corridor Amendments.**

Tokos reviewed the maps, area by area, and touched on the code changes themselves. He then covered the intent of the districts for the C-1, C-2, C-3, I-1, and I-3 zones.

Tokos pointed out the locations of the properties for the persons who gave testimony the zoning map. Berman asked if the areas that were defined were part of the consultants work or from someone who said they should look at the particular pieces of land. He also asked why the lines for the zoning in the maps didn't change after the Commission had talked to the persons giving testimony. Tokos explained the Commission could modify the boundaries based on what they collectively believed they wanted to do. Typically, we don't do individual parcels zoning in the city because an individual kind of spot zoning was generally frowned upon. More often than not, what they would see was a zoning classification that's put in place to guide the development moving forward in a certain direction. Because of this they would see nonconforming uses, mainly in the industrial, for residential uses. Lot by lot zoning or spot zoning wouldn't provide a lot of direction as to where they were trying to go, and it was rare to see spot zoning in the city. Berman asked why they approved two different zones for the property with a house on it that the Commission received public testimony on. Tokos explained when this property came in the city they had to apply zoning for it. The property owner had applied to annex into the city and a portion of their property was under a residential Comprehensive Plan designation and a portion was under industrial. They asked for residential zoning where the dwelling was and industrial zoning on the other part.

Escobar asked if the Aquarium Village had an objection with a C-3 designation instead of a C-2. Tokos noted that this was a mixed use and why the Commission moved it forward to include it in the package to have it be C-2. The Commission was under no obligation to change this. Tokos was looking for a collective direction on what the Commission wanted to change, keep or remove in this package so that they could make the changes prior to the next hearing. Escobar pointed out that in the public's view

there hadn't been enough outreach to the individual landowners about the proposed zoning changes, and it seemed a lot of people didn't have a lot of notice. It struck him that there were families or businesses who invested money into the ongoing businesses who felt their investments were at risk. There was some discussion that with the zone changes the existing business would become nonconforming and have to get approval from the Commission if they wanted to expand or modify it. This seemed to be a burden that a lot of the citizens were uncomfortable with. Escobar thought they should focus first on the city owned property where the Flashbacks and South Beach Church was. He suggested they move with caution when moving south.

Patrick thought most of the uses in the Aquarium Village was already nonconforming in the industrial zone. It seemed the C-3 zone would allow more uses and he was okay with that. Patrick noted the proposed C-1 zone would kill some businesses that were already there, and pointed out the whole idea was to clean up Newport's approach on the south. Tokos reminded they were trying to anticipate how this portion of South Beach was growing and evolving, and where the demands and the needs were. There had been a fair amount of outreach to the general public as part of this process and the general comments were that they wanted to see more general retail services in this area. One of the issues that came up when looking at barriers to attracting additional retail service use in the area was that the light industrial zoning was viewed as it introduced too many wildcards. Somebody who's looking to make investments in retail service type uses would think it was too flexible. Tokos reminded the Commission that when they were looking at applying the zoning they should look at how the area was evolving and transitioning.

Berman voiced concerns about how it felt like existing uses that had been there a long time and relied on their ability to expand in the future where having the rug pulled out from them. Even though there was no probable immediate impact, in their opinion it was still limiting what they could do. Berman felt this was wrong somehow. It was the Commission's job to look at the big picture and how things would evolve. Berman didn't want to force evolution on somebody that was already doing business and complying with all the regulations, such as the candy shop and Auto Doctors owned by Robert Hoefs. Escobar agreed with Berman's feeling on disrupting the existing property owners. A discussion ensued regarding the location of Hoefs' properties and what the changes meant for them. The changes would make the residential on the second floor of the property be conforming and make the Auto Doctors be nonconforming.

Branigan asked if the existing I-1 could be a proposed C-3. Tokos noted they could do this but reminded that the intent of the zone districts allowed the C-3 to have a range of commercial uses that would be viewed as incompatible with a lot of retail service uses. If the objective there was to get more retail service uses, a C-3 was probably not going to be any more attractive than the I-1 to operate. A discussion ensued regarding the allowed uses in the C-3. Hanselman asked what the reason was to change from I-1 to C-1 was. Patrick explained it helped developers want to make investments to redevelop. He noted a lot of the existing properties were nonconforming and there weren't many opportunities to expand.

Escobar asked how would changing the C-3 affect the candy shop and Auto Doctor. Tokos explained if you made the change for vehicle repair to a conditional use, it would be an outright permitted use in the C-3 as opposed to a conditional use in the C-1. Escobar thought the Aquarium Village could be a C-3. Tokos noted the challenge of the C-3 was that the intent of the zone district was intended to accommodate a broader range of commercial and quasi industrial uses that were incompatible with a number of the typical retail service uses. If they were trying to attach food service with a number of the typical retail service uses, a C-3 wouldn't be more attractive than a I-1.

Tokos asked for the Commission's general thoughts. Capri thought they should start with the change from I-1 to C-2 first. He thought it should stay as I-1 because it made no sense to move the Aquarium Village out by one. Tokos explained there was a tourist commercial to the west and the north. They saw this as an area that's transitioning. Urban Renewal made some heavy investments in infrastructure at 35th Street, and they will be making additional investments in this area. Tokos noted the Commission needed to ask if it made sense to orient it more to tourists commercial or industrial at this location. Patrick thought it made more sense to make it tourist commercial. Capri pointed out the whole northern area was industrial buildings for the Aquarium. Tokos explained if less than half of the area was associated with retail use it would be okay. He noted the industrial condos that were used for storage and industrial use could continue to be used as that use but they would be nonconforming. Tokos didn't expect to see much change there so the fact that they were rendered nonconforming wasn't a major issue. He pointed out that nonconforming uses could continue and could be maintained. Changes were reviewed and generally approved by the Commission. Tokos noted the nonconforming status ran with the land and a new owner would have the same set of rights as the previous. Branigan thought this should be C-2 because it went hand and hand with the Aquarium. Escobar thought it should be C-3. Berman thought they should change the definition of the polygon area on the map and leave the Smith property as it was. Patrick noted this would make it an isolated I-1 and they didn't want to do this. Tokos said what he heard was to leave it as it was and see how the vote went at the hearing.

Tokos asked for Commission's thoughts on the change from I-1 to C-3. The Commission was in general agreement for this. Tokos then asked for comments on the change from I-1 to C-1. Berman wanted the city property to be C-1. Tokos explained it would make it more challenging if they made the city property C-1 and the rest of the properties around it I-1, because it would make it more challenging to attract retail services. Patrick thought they should make the vehicle repair a conditional use and then the warehouse would be nonconforming. Tokos agreed. When they did the C-1, auto sales was a conditional use but vehicle repair was not. Tokos pointed out that vehicle repairs went hand in hand with auto sales to some degree.

Escobar asked how this would affect Auto Doctors if they changed it to C-1. Tokos explained they would be fine as is, but if they wanted to expand they would need a conditional use. Escobar asked what would happen if it was C-3. Tokos explained this would be an outright allowed use. Patrick thought it made sense for the big stretch of property to be C-1. Tokos reiterated the purpose of the C-1 they got from the process was that people wanted to see more retail service uses attracted to that area. The Commission was in general agreement to leave it as it was presented and discuss it in at hearing.

Escobar thought the public testimony made a compelling argument that the city needed industrial. Berman pointed out that this was a misstatement because they ignored the fact that there was significant industrial to the north. Tokos noted there was also significant industrial on 50th Street, which was inside the Urban Growth boundary but not in the city limits. The challenge for this location was the more residential they saw around the I-3 piece the tougher it was going to be long term for the city. This was especially so because industrial uses have emissions, and was typically a type of use that they would expect to see separated by distance from other uses. Escobar pointed out that the industrial use was there first. Tokos thought this was a fair point and noted it was included in the owner's letter to the Commission. When planning a community the Commission needed to look at vacant sites that may have been great for heavy industrial years ago and ask if they should continue moving forward. Tokos noted that they could leave it alone if they wanted to.

Berman asked if it was true that the consultants never reached out to the property owners. Tokos didn't know if they reached out to any property owners. The consultants were doing a high level set of code audits, which was called for in the plan, and provided recommendations in their analysis.

Hanselman asked if there was any mention of heavy industries wanting to move into the area. Tokos noted that three of the four owners have been clear in their testimony that they wanted to see it remain I-3. They had an investment backed expectation that they would be able to use the property for heavy industrial use someday. The owners didn't specify when that might happen. Berman thought they should leave it as is. Escobar agreed. Capri noted that the typography next to this area gave it a feeling of separation. He declared a potential conflict of interest when talking about his interest in the project to build condos and homes near the site. Patrick thought they should leave it as it was, but noted at some point they would need to change it. Escobar thought if they did nothing now, these owners by their participation in the process knew there was a trend to change the zoning. They now had notice and when this was looked at again it wouldn't be thrown at them as a sudden proposal. Capri thought it was better to have more industrial going south because of what was allowed in the tsunami zones. Tokos confirmed there was an industrial complex designation when moving to the south. As these properties were annexed in they would come in as I-1, I-2, and I-3. There was capacity to add additional heavy industrial use further south, and this fit the intent of the I-3 a little better. Patrick thought they should leave it alone with the idea that down the road it might be changed.

Escobar asked how much noise and vibration debris happened at the concrete plant. Patrick thought there wasn't much of this for a concrete plant. He noted at one point there was an asphalt plant there that didn't make much noise but had a smell to it. Tokos noted visually they had relief there, but it didn't have help with emissions. The discussion was to do a potential batch plan there in the future and the I-3 allowed all kinds of uses. Hanselman questioned if they were looking down the road to change it from I-3 to something else, how they would be able to do that should the owners decide to build a concrete plant there. He wanted to know how long down the road they could change this. Patrick noted that as things built out there the demand for that property would change. They might be approached by a buyer who wanted turn it into a C-2 or C-1, which would make them have to do a zone change. Patrick felt that if they left it alone the economics would drive the change.

Escobar asked for clarification on what Jeff Bertuleit testimony and what his concerns were. Berman noted Bertuleit was concerned about things that would happen in the future which weren't on the table currently. Tokos reported that Bertuleit's property was outside the city. He reiterated what he was hearing was there was general consensus to drop this piece. The Commission was in general agreement on this.

Berman asked about the South Beach State Park change. Tokos explained this was a Comprehensive Plan map change. This was probably a map error or a lack of precision on where the residential designation was placed. Tokos wasn't certain if this was due to the State Park picked up more property after the fact. This would change the designation to public instead of residential for the area that was the maintenance facility for the State Parks. Tokos pointed out that it would probably never be changed from this use and it didn't impact the residential to the south.

Berman reported that the latest zoning map and Comprehensive Plan map on the city website was from 2017. He asked for updated maps to be placed on the website. Tokos noted the city hired a GIS tech who was working on doing this.

Tokos reviewed the code amendments to Chapter 14.03 for zoning districts to change auto repair to a conditional use in the C-1 zone. He reminded that service for auto was allowed but the repair piece

wasn't. Patrick pointed out that a towing service also had a problem in the C-1 and asked how the Newport Marine sales was affected. Tokos confirmed the lease and sale of large vehicles there was like auto sales. They weren't proposing any changes there because it was outside the city. Berman asked if Newport Marine had vehicle storage on their lot. Tokos thought they did. Berman noted that they would be considered vehicle storage then. Tokos explained that they would look at the property to see what more than half of the property's use was to designate it. If they were annexed in and this provision was in place, the worst case scenario would be that they were nonconforming. Patrick asked if the self-storage would be nonconforming if it was brought in. Tokos confirmed it would be. Newport Urban Renewal had made significant investments in its water and wastewater systems down to 50th Street, and a lot of the properties in the unincorporated areas were self-storage and other uses that didn't require the connection the city's wastewater services because they had holding tanks. The thought was that they needed to get these in as active industrial use which would create some opportunities for flex industrial and could be accommodated with the wastewater and water systems that were in place. Berman noted that sales of building materials was prohibited. Tokos explained wrecking of heavy machinery, metal and building materials was what they were striving for but they could tweak the language.

Escobar noted that at the last public hearing there was a discussion about holding a work session on the zone changes and then having a hearing continuation. He felt it was premature to make a vote in August and felt they should defer it until September. Tokos explained this was a judgement the Commission would have to make at the hearing.

Berman asked if the letter submitted by Traci McDowall as part of the work session meeting would be part of the record. Tokos confirmed it would and explained it would be included as additional public testimony for the hearing.

Escobar asked if they could defer the Camping Ordinance discussion to the next work session meeting. Tokos confirmed they could.

Patrick asked if there were any changes to the setbacks. Tokos explained there were no changes to this.

**B. Final Scope of Work for TGM Funded City Center Revitalization Project.** Tokos asked the Commission to let him know if they had questions. Capri asked if this was based on an ODOT template. Tokos confirmed it was a template. They could adjust the language but not the template. The concept of the City Center Revitalization Project was to go through a mini RFP process with ODOT. Tokos asked if any Commissioner wanted to participate in reviewing the RFPs to let him know. This would be an opportunity to see submittals from different consultants. Since the grant had been flushed out, the State would be issuing a mini RFP process and the consultants that were listed were the ones that are already prescreened. Tokos explained the concept was to have a whole series of stakeholder meetings for the City Center area. Capri asked how much administrative lift would it take to reach out to all the property owners in that area as opposed to the relevant property owners. Tokos noted they would be reaching out to all owners in the area. They would be doing stakeholder meetings with those that wanted to talk about US 20 as opposed to US 101. They would also be doing some charette work to mock up what this would look like. They would then like to do an initial round of in person charette work. Then things that were built out of this work could be done by virtual preference surveys and other ways. There would also be individual engagement with the affected businesses in the area.

Berman asked if the Transportation System Plan would include all of the public comments. Tokos

confirmed they would all be included. Berman noted that the couplet discussion at the City Council work session meeting was to recommend one or the other of the options. He asked if this would be spelled out as one of the deliverables for that recommendation. Tokos explained the TSP had a couple of options for how to redevelop US 101 in a manner acceptable to the State and meet the objectives of the Urban Renewal Agency, the taxing agencies that contribute funds to the Renewal Agency, affected businesses, and the broader community. Berman noted he would like the reference to the Armory and the possible relocation of the National Guard included. Tokos explained this would be done more so through the process not particularly in the document.

Berman noted on memorandum one it said the TSP identified two alternatives for improving transportation facilities within the study area on US 101, and this project would identify which of those alternatives or various of the alternatives would best support the project. He asked if this set the stage for them to be making a decision in the first memo. Tokos confirmed it wasn't. It was to set up what would come out of the entire process.

Berman thought every time they did a project with the population projections they were different. They should be using the same population numbers across the board to be consistent. Berman thought saying the public presentations materials should be published not later than the day of the event wouldn't give people enough time to review them and decide early if they wanted to attend. Tokos explained there would be materials that could be provided in advance and others that they would be bringing to the meetings. This wasn't much different than what they already did but they could try to clarify it. Tokos noted the charrette work and maps would be brought in the day of the meetings, and mock ups would then be posted after the end of the meetings.

Tokos asked if anyone was interested in reviewing the RFP. Patrick volunteered to do it.

- C. **Review Updated Camping Ordinance.** Tokos noted they would bump the Camping Ordinance discussion to the next meeting. Berman noted there needed to be a lot of refinement of the words. Tokos noted they would do this before the actual final ordinance was done. They would work to adopt the elements that weren't land use in the near term, then they would clean up the land use languages.
  - D. **Updated Planning Commission Work Program.** Tokos reviewed the changes to the work program. He expected the plan development to be submitted soon and why it was bumped to a later date.
3. **New Business.** None were heard.
4. **Adjourn.** The meeting adjourned at 7:29 p.m.

Respectfully submitted,



Sherri Marineau,  
Executive Assistant