

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
October 22, 2018
5:30 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Bill Branigan, Rod Croteau, Bill Branigan, and Jim Hanselman.

Planning Commissioners Absent: Mike Franklin (*excused*)

PC Citizens Advisory Committee Members Present: Dustin Capri.

Public Members Present: Carla Perry, Pam McElroy, Jamie Michel, Frank DeFilippis, Wendy Engler, and Janet Webster.

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 5:35 p.m.
2. **Unfinished Business.**
 - A. **Continued Review Draft VRD Code Amendments.** Tokos reviewed the notice for the public hearing and told the PC that the hearing on November 13th because of the holiday. The PC was in agreement to start the regular session meeting at 6 p.m. without a work session meeting. Tokos said the notices for the hearing would be mailed out on Wednesday, October 24, 2018.

Tokos reviewed the markup language and the changes that the City Council (CC) suggested. Croteau thought the B&B definition needed to be looked at and asked if owner occupied had to be just the owner or if it could be an authorized agent. Berman thought this deserved a change. Tokos would update. He noted the definitions of sale or transfer would be tightened up if a cap was in place and noted it was what constituted a sale or transfer with a corporation. Hardy asked how a change could happen. Tokos said it would be the original licensed holder. Hardy suggested saying "name of owner" doing business as.

Croteau said the exemption should be added on Page 3 of 27. Tokos said it would be going from an individual to a spouse. Hanselman asked if homeshares would need an endorsement license. Tokos said yes. Hardy asked if the city changed its agreement with Airbnb on how they reported who paid room taxes. Tokos said the City did away with the agreement because the State passed a law that did away with agreements with intermediaries.

Tokos noted that under parking there was a change to say that photos of off-street parking needed to be within 30 days of time of application. Croteau said there needed to be some sort of proof/certificate under liability. Tokos said this was the certificate for renewals. Hanselman suggested requiring a letter of intent at application, then before they picked up the endorsement license they had to have proof. Croteau said to take off "listing" from the number on residential proof.

Tokos reviewed the transferability provisions. Croteau asked what would happen if the license went with the sale and there was someone waiting in line for another license if caps were in place. Tokos said if there was a cap, then these wouldn't free up for residential. As licenses were given up for sale they would open up spots. A discussion ensued regarding the three options for transferability. Croteau asked why the AC didn't want transferability in residential. Tokos said the thought was that people in residential areas didn't want the feeling that once a VRD, always a VRD. There was more of an expectation of this in a commercial area. Croteau asked where this was located in the language. Tokos said it was implied.

Capri asked how the voting on the amendments would happen. Tokos explained that there would be two public hearings, and on the second hearing the PC would take vote and provide recommendations to the CC on where they thought they should go. Capri was concerned about the PC taking testimony and then voting that same night. Tokos said the public testimony would allow the PC to hear input on the options and then they would be able to make a recommendation to the CC. A discussion ensued regarding how to take testimony and voting on recommendations. Tokos reminded the PC that the schedule was tentative. The first hearing was noticed and the PC could gauge the testimony and decide what they want to do next after public testimony. The PC was in general agreement with this. Janet Webster addressed the PC and questioned if the public would understand the public notice and what the criteria was. Tokos said these were the

standards for legislative changes. Webster thought this was important and suggested looking at it again to make sure it was easy to understand. Patrick noted that there was a lot of changes that were dependent on other changes and until everything was reviewed the PC couldn't make decisions.

A discussion ensued regarding how the PC would do vetting. Tokos suggested taking testimony and having a work session before another hearing to vote. He noted that all licensed VRDs would be nonconforming once the amendments were in place. Hardy asked if all VRDs would be noticed. Tokos confirmed they would.

Tokos explained that the endorsement renewal would happen during the normal business license renewal at the beginning of the fiscal year. Owners would have between July 1st and August 15th before the license would be presumed to be discontinued without any further action. Hanselman asked if the 45 day grace period was a State requirement. Tokos said it was a city requirement. Berman asked if it would be a two-step renewal process every year. Tokos confirmed it was.

Tokos reviewed approval standards next. He noted that the noticing for new VRDs to neighbors would be shifted away from a mailing notice to requiring a posted sign. Berman asked if the primary contact had been defined. Tokos said it wasn't defined but they would need to be able to respond within 30 minutes. Hardy was concerned that a sign would have the potential of notifying residents that the unit was not occupied full time. Tokos said the AC had discussed this. Croteau asked about the thought to expand the 500 feet notice. Tokos said the AC was good with a sign posting as a replacement for mailing notices. Branigan wondered if there should be a color requirement for the signs. Croteau thought the sign should be required to be in English. Hanselman thought it should be Spanish as well. Patrick asked if there had been thoughts to numbering endorsement licensing. Tokos said this was already required to be posted. Capri asked if a conditional use option for parking was granted for a VRD, would they have to reapply every year for it. Tokos said if it was a conditional use authorization, it ran with the property. Berman asked what "1-2" meant for the size of the sign. Tokos said it needed to be between one and two square feet. Berman thought the sign should be reflective if not illuminated.

Tokos covered fire/structural inspections. Capri asked if the Building Official was okay with the structural safety element. Tokos said yes, it was the Building Official's recommendation.

Tokos covered proof of use next. Croteau suggested adding "must" show proof of use. Tokos would take it out. He reviewed the two year cooling off period next. Hanselman noted he had asked for information on how many days each VRD unit was used but the city didn't have this data. Hardy said the current report form didn't include the number of days rented. Hanselman thought there needed to be a proper data form in order for this information to be collected. Tokos thought this could be put on forms. Carla Perry addressed the PC and asked if the AC would see these forms and if they would reassemble to see if the information was actually covered in the form. Tokos said the administrative documents would be put together after the ordinance was passed. Perry asked that the AC be included and notified when those forms were ready.

Hanselman asked to add on the building inspection that the laundry room be required to have a GFCI if there was a sink by the receptacle. Patrick said they left this up to the Building Official to call out on his inspections.

Tokos reviewed the complaints next. Perry suggested there needed to be some mention of fines in this section. She said the AC was in agreement with enforcement but it wasn't in the document. Tokos said there were provisions but on this particular one they should consider defining what "timely manner" was. Branigan suggested one hour to respond. Jamie Michel addressed the PC and reported that if they were talking about the concern of the neighbors, her management company would reach out to the guest by phone or come to the unit. She said they would then respond to the neighbor and let them know how the concern was responded to. Hanselman stated they had to rely on the owner/manager to respond to concerns because the police couldn't respond. Michel thought an hour was reasonable for response time. Pam McElroy addressed the PC and asked how this would work with a central complaint reporting. Tokos said they planned on going with a third party vendor which would create the complaint system with a 24 hour dispatch. He noted that they couldn't control who chose to use that service and who the public contacted. If the public went through the central complaint service, it would be dispatched to whomever was the designated contact. Berman asked if the third party complaint contact information needed to be on the sign. Hardy thought it should if it existed. The PC was in general agreement to say that timely manner was within one hour. Tokos said that "respond" meant getting back to the owner.

Tokos reviewed the guest registry next. Berman thought it was important to have the log available to the city so they could review the rental log. Croteau agreed and thought under 2.B is should say "emergency responders and the city" should have the rental log made available to them for a disaster. Hanselman suggested changing 3.B from "or" to "and"

so the owners couldn't hide behind the manager's name. Perry suggested changing D to add "off-street" to the number of approved parking spaces.

Berman asked if it was a violation if tenants parked on the street. Tokos said it wasn't a violation for on-street parking, it would be a violation that they didn't use the designated off-street parking. Berman was concerned about RVs parking on the streets for rentals. Tokos said the language by the AC said the renters had to use the designated off-street parking first. If there were more vehicles than this, they could use the on-street parking.

Croteau suggested changing "while occupied" to "while the dwelling was used". Tokos would change this. Croteau asked if it should say that liability was required. Hanselman suggested saying "required liability insurance". A discussion ensued regarding on the premises occupancy. McElroy said it should say that occupancy was "at any time". Perry said the AC agreed to add that statement at the end. A discussion ensued regarding occupancy limits. Tokos said the CC asked for clarification on appeals and it was added.

Berman said on Sections 45 and 50 there were three different ways the Municipal Code was referred and suggested that it be made consistent throughout to say "NMC". Tokos would change this. Branigan suggested putting in definitions that NMC meant Newport Municipal Code.

Tokos covered penalties next and the three strikes you're out language. Croteau asked if there would be language on fines included. Tokos said there wouldn't be if they had an endorsement because it would be the three strikes you're out risk. Berman asked if a violation went on for three days, would it be considered one or three violations. He thought it was an issue and needed to be defined. Tokos said they could run into issues when counting each day towards a three strikes rule. Frank DeFilippis addressed the PC and suggested defining duration. Tokos explained that owners would get one notice and if they didn't change things, it would be a citation.

Tokos reviewed the land use authorizations next. Croteau said under "purpose", he didn't like it saying "housing for a business". Tokos would change to "housing for employees of businesses".

Tokos reviewed the conditional use language and clarifying language for blocks that were long. Hanselman thought long streets might create an issue but didn't think a street with five houses should be considered a long street. A discussion ensued regarding standard blocks and street segments and how to factor them. They also discussed conventional blocks versus non-conventional blocks. Perry said that the AC agreed that the long blocks could be addressed in this way but there was never a number. She wanted to see long blocks be 20 houses.

The PC took a break to hold their scheduled regular session meeting at 7:02 p.m. and reconvened at 7:15 p.m.

Patrick asked if CC&Rs were checked for parking restrictions. Tokos said they would be private agreements that had to be enforced. All they were looking at for the shared parking was that the covenants included something that said the space they were claiming was reserved for them. Berman asked if water zones were considered commercial. Tokos said yes.

Tokos reviewed the cap alternative and how it would work. Croteau said anytime there was a percentage there needed to be a number. Tokos said that 200 to 300 was this range. Hanselman said that the AC had requested that it not be 220 to 300 and noted there was not a vote on this. He thought a lower number of 163 to 200 should be a number that could be used, but there wasn't consensus. Hanselman was concerned that he heard Tokos say this number range could be used but it wasn't included. He used 163 because that was the number of VRDs when the moratorium was in question. Tokos said there were two policy options with a top end and the PC could decide what the number should be. A discussion ensued regarding the maximum number of consensus. Hanselman didn't want the number to be listed on the right hand column. He felt it should be a percentage of the zone count, not a number. Tokos reminded the PC they would be adjusting the language as they whittled down the other areas. Hanselman was concerned that the AC had no consensus on the number or percentage. Croteau said most of the language would be determined on what map alternative was chosen. There was a discussion on what number was agreed upon at the AC meetings. Hanselman said there was no consensus on percentage but wanted the range to go from 163 to 200. Tokos reminded the PC that the way the code was structured was to give the percentage top end for the CC and by resolution. He thought the most efficient way was to move these forward and make a recommendation on what the numbers should be once they knew what map alternative to go with. Croteau and Patrick suggested having another alternative to be three percent. Capri noted that if the constraints were on street segments, this wouldn't matter. Tokos said they could use the spacing and cap together as well. He reminded the PC that the choice of alternative maps would give direction on what other things would go away. Hanselman said they were failing to recognize that a nerve was hit at 163 VRDs and wanted it to be recognized. Berman didn't feel 163 was a relevant number, but the percentage in a neighborhood was more relevant. Hanselman thought they couldn't put a number range when they didn't know where VRDs were going to be allowed. He was concerned

that that the AC was tasked with goals to protect the housing and neighborhoods and didn't feel that was included in the document. Tokos read the responsibilities the AC agreed to when they signed on. Capri was concerned there weren't options that showed how things were contingent on other things and felt it needed to be figured out because it was so confusing. Tokos noted they would go through policy option by policy option to find out where there was consensus, and give a recommendation to the CC. Croteau said after the public hearing the PC would have to sift through and provide a road map that was mixed in terms of options to the CC. He said he would be calling for a recorded vote on different alternatives to tell the CC on why they agreed or disagreed on things. This could be discussed in a work session then voted on in a regular session. Croteau said that the document needed to reflect what the PC wanted. Berman asked if it would show what the PC voted down. Tokos said it would.

Croteau asked what the best way to review was. Tokos suggested holding a public hearing to narrow the options, do another public hearing with the narrowed options, and then go to a vote. A discussion ensued regarding how the PC could narrow the options and how to come to consensus on decisions without a vote. Hanselman asked if the CC could ask for a moratorium on VRDs. Berman said the CC had already voted it down. Hanselman said that was then and it now might be a more appropriate time to consider this. Tokos said there was a time and a place to look at either a moratorium or way to address additional applications and they needed to look at what the package should look like.

Perry asked about the language saying VRDs were permitted in all zones. Tokos said this was language for if there was a cap in place. Capri asked how many VRDs there would be if there was one per street. Tokos said they would get into problems when talking about areas where there were condos. Berman asked if there should be something about a frequency on how often the CC should review the ordinance. Tokos said things could be reviewed when the CC wanted to see it happen.

Tokos reviewed the spacing requirements next. Berman asked for clarification on the statement about only one VRD being allowed if it abutted a corner lot. Tokos would clean up the language. He reviewed the concept of treating a condominium unit as one unit and said there were challenges on townhouses in South Beach. Tokos reviewed occupancy next. The PC was in general agreement to go with "children 3 and under".

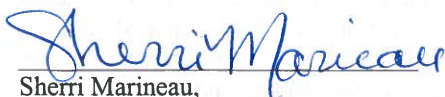
Tokos reviewed the parking standards next. Berman thought that if the VRD couldn't meet the parking standards, they should reduce their occupancy. He was concerned that there wasn't any language saying anything about this. Hanselman said the AC talked about occupancy being set on number of rooms and parking. Tokos said it would be one off-street parking space, per bedroom for use. Berman wanted this included in the language. Tokos would review the language. Berman suggested adding it to D.1 saying "maximum of five bedrooms, not to exceed the number of off-street parking spaces". Tokos said E.1 had a conditional use and E.2 was saying that they fell in a parking district and could use public parking to meet requirements.

Tokos reviewed non-conforming short term rentals next and the alternatives. Croteau thought they should do three to five years for amortization. Tokos said the City Attorney advised not to go below five years for legal defensibility. A discussion ensued regarding taking public testimony and how to use it to make decisions on policy options. Hardy suggested that the PC take a harder look at the premise they were working under because the idea of protecting housing and the character of neighborhoods was prejudicial and inaccurate. She said the character of neighborhoods and the problems from VRDs were things that were common across Newport.

Tokos reminded the PC that the notice would be mailed out by October 24th for the November Planning Commission public hearing.

3. **New Business.**
4. **Director's Comments.** No Director comments.
5. **Adjournment.** Having no further discussion, the meeting adjourned at 8:15 p.m.

Respectfully submitted,



Sherri Marineau,
Executive Assistant