

MINUTES
City of Newport
Vacation Rental Ad-Hoc Committee Meeting #6
City Hall Council Chambers
Wednesday, April 18, 2018

AC Members Present: Carla Perry, Cheryl Connell, Charlotte Boxer, Bonnie Saxton, Don Andre, Braulio Escobar, Jamie Michel, Margaret Dailey, Martha Winsor, Bill Posner, and Pam McElroy.

AC Members Absent: Norman Ferber, and Lauri Hines.

Planning Commission Liaison Present: Jim Hanselman.

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

Public Members Present: Roy Filby, and Chris Ehrmann.

1. **Call to Order.** The meeting was called to order at 1:00 p.m.
2. **Disclosures.** Tokos asked for conflicts of interest. Saxton, and Michel disclosed they had potential conflicts of interest. Dailey, Hanselman, Perry, Connell, Escobar, Posner, Boxer, McElroy, and Winsor stated they had no conflicts.
3. **Approval of Minutes from the April 4, 2018 Meeting.** Tokos asked for input on the minutes. Winsor noted minor corrections.

MOTION was made by Dailey, seconded by Saxton to approve the April 4, 2018 Vacation Rental Ad-Hoc meeting minutes with minor corrections. The motion carried unanimously in a voice vote.

4. **Review Agenda, and Revise as Needed.** Tokos asked for any adjustments to the agenda. None were heard.
5. **Committee Requests.** Tokos covered the committee request documents that were shared with the AC. Tokos said the number of VRDs for 2016-17 started at 140 and ended the FY at 163, with an average of 150.

Tokos reviewed the AC request for more information on the Nye Beach Design Review Overlay. He said he had drafted the last version of this code based on committee feedback and it had gone through a number of iterations over the years. Tokos described the area that was included in the Nye Beach Design Review Overlay and said it included tourist commercial, high density residential, and some public zoned areas. He said the intent of the historical overlay was to influence the form of architectural construction so it was consist with the historic flavor of the area. He noted there were a set of nondiscretionary standards that people had to follow in the overlay in terms of things like having the right roof pitch, window sizing, and embellishments. Tokos said there were discretionary processes which would go to the Planning Commission if the owners felt they could achieve the architectural objectives in a different way. He said there were also alternative design standards in the district that were intended to create a little more density and a walkable community environment. The design review recognized that lot sizes were smaller there than the rest of the City and included an accommodation that halved the typical setbacks they would normally have. He said there were exemptions for off-street parking in the overlay zone and described how it was set up.

Perry said she wanted to add an agenda item to the current meeting to review the Conditional Use (CU) hearing for parking relief in the Nye Beach Overlay area. Tokos said he would add it to the section before his PowerPoint presentation. Connell asked Tokos to also provide context with what Perry was referencing. Tokos said he would do this when he reviewed it later in the meeting. Winsor said her understanding was that part of the overlay was to encourage residential over commercial. She asked if there was nothing in the overlay that tried to encourage more residential. Tokos said the overreaching policies had a desire to have a mixed use environment but didn't have specific standards or residential targets.

Tokos reviewed the updated VRD list. Connell requested that the AC be given the list in a format to allow them to sort it differently. Marineau to submit the list in a sortable format for future meetings.

6. **Review Updated Committee Schedule.** Tokos reviewed the updated schedule and asked for comments from the AC. He said the sense he got from the AC was a preference to not add additional meetings if at all possible so he didn't add any additional meetings in. He noted that enforcement would be on Meeting 8. He said with locational concerns and the mapping exercise they would need two meetings to complete the review. He said he wanted to see how things went and would continue to adjust on a meeting to meeting basis. Saxton asked how the AC would be furnishing their recommendations since they

don't vote on anything. Tokos said during the meetings he wanted to get a sense of what the AC was looking for and this would be captured on the Policy Topics sheet. It was a rolling and growing list. He said the sheet would inform him of what code amendments were needed to bring back to the AC for feedback. Tokos asked for any thoughts on the schedule. None were heard.

Tokos reviewed the CU hearing for a Nye Beach VRD that Perry referenced earlier in the meeting. He said the new owners of the property asked for relief from the three parking spaces normally required for a three bedroom VRD. He said the hearing went before the PC and they approved it. Tokos said Nye Beach was where the PC had granted most of the CUs before. He noted that Nye Beach area had public parking assets in place that are intended to relieve off-street parking obligations. The standards that are in place say the first 1,000 square feet of commercial wouldn't have to provide off-street parking. Owners get to claim on-street parking spaces immediately abutting their property on a one to one basis for which they would otherwise have to provide off-street parking. He noted the parking district there allowed businesses the capacity to grow as long as they didn't generate a demand of more than five new off-street spaces. Tokos said when the PC sat in a quasi-judicial capacity as a judge they had to evaluate the application based on the existing standards to see if they were met. The Nye Beach standards were drafted explicitly in the context of all uses and this application met the standards and was granted the CU.

Escobar asked if it was the consensus of the PC to approve the CU. Hanselman said there was one abstention for the vote by the PC. He said they were put in a position where the applicant had met the ordinances for the area because the VRD was considered "any use." Escobar asked if the owners could get parking permits. Hanselman said they could get a number of parking permits and this was their plan. He said the property was owned by two families using it as their vacation home and wanted to use it as a VRD when they weren't there. Hanselman noted that the property was apparently being used as a VRD by the previous owner but wasn't licensed. Connell asked if the zoning there was C-2. Tokos said yes. Connell said it sounded like the VRD was being treated as a business and was allowed to get a CU like a business would in the area. Tokos explained the zone allowed residential over retail such as this instance. Typically a single family home would be required to have two parking spaces but in this district it was reduced by one. He noted there were parking requirements for residential as well as commercial uses in this district. Connell asked if the issue was about it being a commercial use as a VRD in a commercial zone or because it was still deemed a residential space over commercial. Tokos said there was a different parking program in Nye Beach that said irrespective of what the use was, it changed what the off-street parking requirements were. In this instance, it was a VRD and if it was a different commercial use they would have a different off-street parking requirement than the one space per bedroom for VRDs. He said they didn't distinguish between uses with respect to parking standards. Tokos explained in this case the parking standard in Nye Beach said they got to count on-street spaces abutting their property irrespective of what the use was, and that no commercial property up to 1,000 square feet had to provide any off-street parking. He said because Nye Beach had the standard of claiming on-street spaces, the PC found it was how parking was managed there for all uses and VRDs were like any other use when it came to parking standards. He said the parking standards could be changed but it wouldn't be in the context of VRDs alone because the standards were for all uses. Connell asked if someone bought a home in the area would they be required to provide off-street parking or would they have to go through a CU process. Tokos said if it was an existing house, they would not. He said this situation needed to go through a CU process because they wanted to use it as a VRD. Hanselman said the PC explored trying to give less than three spaces for the CU but it wasn't possible because of the surrounding businesses. Boxer said she wrote a letter in opposition and said as a business owner parking was essential. She asked if the parking permits allowed the cars to park all day. Tokos said because of the parking district, residents could get parking stickers and door hangers for guests. If they had either of these, enforcement wouldn't tag them on the 3-hour parking time limit. Tokos said they are entitled to as many permanent parking stickers as they had permanent residence vehicles. Tokos said they could get as many door hangers as they wanted to hand out to guests and they wouldn't be subject to the parking time limit as well.

McElroy asked if there was a timeframe for CUs. Tokos said they ran with the land use and don't necessarily go away, but a new owner would have to get another CU approval. He said in respect to parking, all kinds of uses impacted parking. He said if the AC was concerned about there being a number of VRDs in a certain area, they should think about what was an appropriate parking standard for a VRD by looking at caps, limits and the change to the neighborhood instead of trying to control the number of VRDs with parking standards. Perry thought there were two things that needed to be addressed. First, there was no punishment for VRDs operating in the past without licenses. Tokos said this would be appropriate to talk about with enforcement. Perry said the other issue was allowing VRDs to have CUs at all. Hanselman said that CUs and adjustments that were permissible for homeowners created a huge conundrum for the PC because the criteria wasn't difficult to meet. He said the PC had to make their decisions based on the ordinance at the time and couldn't change what was written in the ordinances. Perry asked if Hanselman had an opinion on eliminating the possibility for CUs for parking for VRDs. Hanselman said he thought it was a usable concept. He said if a rule was set up that was unenforceable, it was a loss and was his concern. This was why he suggested the term onsite versus off-street parking. He said eliminating the possibility for CUs might ruin business plans for people who wanted to run VRDs. Tokos said they had to be careful on how the ordinance was drafted because they couldn't logically explain why a VRD was required to have off-street parking and other commercial and residential weren't. If they wanted to cap the number of VRDs in an area, that was different. Saxton asked if the only

people who got CUs were in the three zones. Tokos said the option was available for all zones. He said one previous CU outside of the parking zone was denied because the PC determined they had space to add parking on their property. Connell wanted the AC to consider that if changed the ordinance to limit to the number of occupants, they could in turn be pushing VRD owners to request more CUs. She asked the AC to remember the context and that even though there were only five CUs applied for so far, it didn't mean there wouldn't be more.

7. **Options for Amending VRD regulations.** Tokos reviewed the other use limitations. Saxton said she was in favor of saying there could be no events at VRDs. Tokos said what he heard was there was a desire to see some language that would limit events from a use perspective. The AC agreed.

Tokos covered the maximum overnight occupancy next. Escobar asked what the difficulty would be in limiting guests to two per bedroom and eliminating the plus two. Tokos said it could be done. Dailey thought it would remove some of the problems if they eliminated some of the occupancy. Perry was in favor of eliminating the plus two. Tokos said the two bedroom condos would be where there would be some enforcement issues if this was done. Posner said it made more sense for condos because the neighbors were so close. Winsor asked if limiting would include children. Tokos said there were some jurisdictions that tried to exclude small children being excluded. Boxer didn't think small children should be excluded. Michel said some jurisdictions made them count children over two years old and others made them count children over the age of four. She said it all came back to clear enforcement. Tokos said it sounded like the rationale there was that if a child who was under two, they wouldn't be occupying another bedroom. Michel said the AC needed to figure out if all people of all ages counted toward occupancy or if children over a certain age wouldn't be counted. Dailey asked if someone could tell the difference between a four and five year old child. Michel said you couldn't. She said the AC just needed to make sure there were clear rules to be in compliance. Posner said maybe that was what the plus two was set for. Tokos said in a manner of speaking the plus two was common amongst jurisdictions but the AC wasn't bound by it. Michel asked if Newport defined a bedroom as being a room with egress and a closet. Hanselman said it was a room with two egresses. Michel said they needed to be clear on what a bedroom was for a base of determining occupancy. Connell said simpler was better and having straight forward criteria was best. She thought that for enforcement, having two per bedroom without the plus two made sense. Saxton said if they took away the plus two they needed to allow small children to not be added to the count because they would be sleeping with parents. Tokos said he would provide optional language that included small children. He noted that for the existing standards, the reason units weren't getting occupancy was because they didn't meet parking standards.

McElroy asked if unused rooms needed to be locked off. Michel said they shouldn't get into whether or not to allow extra beds in the VRDs. The idea was that there would be codes in place that were enforceable that limited overnight guests or the number of guests at any time. Escobar asked if they could get a CU to allow more cars. Hanselman said they could depending on where they were located. Michel didn't want to see the AC say that VRDs had to lock off bedrooms. Saxton thought how the occupancy was advertised was important. Michel said if they advertised outside of their occupancy they would not be in compliance and they should get a strike against them. Escobar asked how Newport defined bedrooms. Tokos said the City defaulted to the building code that said an enclosed area with two points of egress used as a sleeping area. He said he could provide further definition if needed. Tokos noted that some owners were working around the system by splitting units into duplexes in order to have separate VRD endorsements. Connell said to keep in mind that people were creative on how they used their property and the ability to make money on properties was limited to what they are allowed. She thought they needed to limit what they allowed for CU so owners didn't find different ways to work around the system. Tokos said what he was hearing was the AC wanted to have an occupancy of two per room and drop the plus two, provide language about small children being exempt, and not worry about locking bedrooms. Escobar said he thought they agreed to default to the building code definition of a bedroom.

Tokos covered maximum building occupancy and wanted it clear that it was different from overnight occupancy. He said building occupancy defaulted to the fire code. Saxton said limiting events would help with this. Tokos agreed and said limiting events would be a way to tackle things rather than maximum occupancy. Connell said this pointed out how critical staffing for enforcement was.

Tokos covered the residency requirement. He asked if the AC wanted to add the concept for home shares and distinguish them as something slightly different than a short term rental with no owner present. Michel and Saxton said they would. Saxton asked what rules would be different for home shares versus VRDs. Boxer thought a home share should be a primary residence. Perry thought zoning issues could come into play. She said if it looked like the direction the AC was going was to not allow VRDs in R-1 or R-2 zones; homes that were owner occupied and wanted to rent out one room wouldn't be allowed. Perry said if there was an ability to separate home shares out, it would allow homes shares to happen where a VRD wouldn't be allowed. Tokos asked if what the AC was saying was they would like to see some home share language so they could allow VRDs to exceed caps put in any overlay area. Escobar asked if home shares were a new term for having a roommate. Tokos said it was renting out a room in your home short term and the owner lived onsite. Michel felt strongly that it needed to say it was a primary residence. Posner said his brother had a home share as his primary residence but was never there when renters came. Boxer said this was where only a one room rental could come into play and thought there

needed to be a call in line to report these. Hanselman asked if there should be a limit on the number of times done. Connell said they needed to look at what the thought was behind having an exception to the rule. If it was because the AC thought an owner would be present and would keep an eye on the renter creating less problems, they should write the standards to say that person had to be onsite. She said otherwise, owners could leave for six months at a time and still have the home be their primary residence. Posner thought the owner should have to be onsite at the time of rental. Tokos said it could be written this way but it might be an enforcement issue. Saxton noted that currently in R-1 & R-2 zones there were no one room VRDs and didn't know why the AC would want to write a rule for something they didn't have. Hanselman said the old rules said they could rent up to 10 times per year in residential. He said this was not enforceable. Michel asked if there was anything in the commercial code that talked about a low impact commercial use. Tokos said the City had home occupations which were allowed in all zones. He said these weren't tackled by zone but were more about impact to the area. Saxton said she must of missed the meeting where everyone decided they didn't want VRDs in R-1 and R-2 zones. She said this would wipe out a bunch of VRDs and didn't like it. Michel agreed with this. Tokos said this would be side barred until after the AC did their mapping exercise. He said what he was hearing as far as residency was there was a desire to make sure it was structured as such that the person should be residing at the home when it was rented. Winsor wanted to see this as an option to evoke given certain types of constraints.

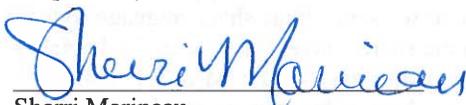
Don Andre joined the meeting and noted he had a potential conflict of interest.

Tokos separated the AC into small groups to do a mapping exercise. He instructed them to draw on the maps where VRDs should be allowed and should be limited. He wanted to see a simple geographic outline to use for overlays. Once the exercise was completed, each group walked through their thoughts on what they drew on their maps. The first group thought everything East of Highway 101 and North of Highway 20 should be limited. The second group felt the same but wanted to add a limit to the area by the Yaquina View Elementary School and properties East of Nye Street. The third group said they looked at what people wanted: beach, community and what was walkable. They felt that all of the areas to the north side of town should be limited. They wanted the VRDs concentrated in the southern area in Nye Beach and the Bayfront and keep everything else as residential. The fourth group said they didn't come to a consensus. They couldn't get a clear line on what to limit and didn't draw in any lines. A discussion ensued regarding the thought process of which areas to include and exclude. Tokos said he would take the AC's input and create an overlay. He said what he had heard was that the areas marked in black on the maps were in proximity to services and amenities that were tourist, and the areas marked in red were areas that provided much needed affordable housing in the community and housing for workers. Boxer said there needed to be safe places in the City where people could expect to not be surrounded by VRDs. Tokos would put the AC's input into a GIS map and give a rough unit count and portion of units within each bubble at the next meeting.

Boxer said at the April 4th meeting the AC discussed off-street parking on undeveloped ROWs and asked for clarification on VRD owners being able to use undeveloped ROWs. Tokos said what he had heard at the meeting was that where driveways extended into the ROWs it was okay, provided there was a limitation that said if the ROW was developed the authorization went away. He said the portion of the driveway that went into the ROW would be the only part they could count for parking.

8. **Public Comment/Questions.** Roy Filby addressed the AC. He thought there was a need for more community input in the VRD process. The only time the public could provide input was in the complaint process. He thought there was two areas where the committee could increase public input. The first one was in the application process. He proposed that the distance of 200 feet be changed to 500 feet or something else. He then said when an application was made, he wanted the neighbors to be informed prior to endorsement. Filby thought there should be some mechanism for contesting. He also thought there should be a three to five year period where there was a thorough review of the VRD licenses to take in account complaints, the history of the VRD, and how they had impacted the neighborhood. Filby felt this would give neighbors the feeling that they had a say.
9. **Policy Options for Code Amendments by Topic Area.** Perry asked about reviewing Policy Options. She said at the last meeting she brought up an annual review on the endorsement and it wasn't reflected on the sheet. She said the AC had also talked about requiring a local contact as a requirement. Perry noted that lighting pollution to surrounding areas was not included as well.
10. **Adjournment.** The meeting adjourned at 3:00 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant