

Minutes
City of Newport Planning Commission Regular Session
Monday, June 13, 2011

Commissioners Present: Jim Patrick, Melanie Sarazin, Gary East, Rod Croteau, Mark Fisher, and Glen Small.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:21 p.m. because the work session had ran long.

A. Approval of Minutes.

1. Approval of the regular session Planning Commission meeting minutes of May 25, 2011.

MOTION was made by Commissioner Sarazin, seconded by Commissioner East, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

B. Citizen/Public Comment. No comments regarding non-agenda items.

C. Consent Calendar. Nothing on the consent calendar.

D. Public Hearings.

Legislative Actions:

1. **Continued Hearing on File No. 5-Z-10.** A request submitted by the City of Newport for approval of legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) as part of a comprehensive Zoning Code update that proposes revisions to Section 2-2-1 (Zoning Districts), consolidating the I-2/"Medium Industrial" and I-3/"Heavy Industrial" zone districts under an I-2/"General Industrial" designation and replacing the land use classification for commercial and industrial zoning districts from one that is based upon "Standard Industrial Classifications" (SICs) to one that is based upon use categories. On April 25, 2011, The Planning Commission received testimony regarding this action and continued the hearing to tonight's meeting. The Commission will forward a recommendation on this matter to the City Council.

Patrick read the summary from the agenda and asked for the staff report. Tokos noted that since this was last heard by the Commission, he met with folks from the Nye Beach area who had concerns. He said they essentially worked through most of the issues. He said he would walk through that. He noted that an email had been received from Wendy Engler that she had a concern with an aspect of this. Tokos said the concern from this group on May 25th was that by simplifying the C-2 uses, they could end up with inappropriate uses in C-2. They got into the Nye Beach overlay to use that as a way of addressing that concern. The packet included a markup of the design review standards. He said these need to be cleaned up anyway. The overlay was allowing additional uses not currently in the code. In the use grouping, they will be allowed. Tokos said their concern was the scale of the use. Nye Beach has a small business type environment. The concept is essentially that they need to have public involvement for the bigger things. Basically, that should go to conditional use. He said they talked about a number of thresholds. They decided that 1,500 square feet is typical of what you will find down there. Anything bigger than that would be subject to conditional use rather than permitted outright. They also made some targeted changes to descriptions in C-2 use classifications. The threshold was the most significant change and would only be in the Nye Beach overlay. Outside Nye Beach in C-2, there would not be that type of limitation. Engler's concern is that gross floor area is not the right threshold. She suggested a 1,500 square-foot footprint. Tokos said that threshold can be set at whatever the Commission feels is appropriate. It just provides that things over a certain scale warrant public involvement. Tokos said that in terms of the industrial zones, he really needs some direction from the Planning Commission. He doesn't believe we can convince Paul Lawson this is a good thing to do. Tokos believes that Lawson doesn't want to give up commercial. Tokos can get a letter from the State stating that this doesn't affect his shovel ready status on that property. The State doesn't want to see it commercial. Combining I-2 and I-3 is not going to impact getting shovel ready industrial. Tokos doesn't think that is the core issue for Mr. Lawson, so he doesn't think he will be happy with it. Tokos asked the Commission if they wanted to forge ahead and combine the districts or not. He said that the Tryons would be okay with the consolidation as long as the City is amenable to doing a map change. ODOT would be the most likely barrier, and they don't have an issue with the map change. Again, Tokos said he needs direction from the Planning Commission if they want to move down the path to consolidate. If they don't want to consolidate, we can leave the districts on the books and do use groupings as best we can so owners are impacted as minimally as possible. Tokos was hoping to get direction where the Commission wants to go so he can actually have an ordinance for next time. Fisher said we could take only the I-2 out of the equation totally and go ahead with the rest of what we are doing. Tokos thinks having it set up differently than the other zones could be an issue. Tokos said the Commission can make a special I-2 zone or can leave it as is if they want.

We were combining I-2 and I-3, but he asked if the Commissioners wanted to do anything with the I-2 and I-3 at this point. Patrick said we could take I-2 and have a use code that is similar to what it is now. Small said the best approach might be to leave three distinctions but go ahead with use category groups as best we can. We can try to incorporate all the current uses for I-2 properties. East wondered if we do the consolidation, does that leave the window open for Lawson to have commercial uses if he decides to do something with the property. Tokos said that is Lawson's issue; primarily flexibility. Tokos asked the Commission if that was a significant enough issue for them not to do the consolidation. He said this is a change of zone, which does impact people. East said that his main concern was affecting the shovel ready status; and if this is not going to be affected by this change, then he said let's do it. Patrick asked what Lawson would actually lose. Tokos said he would lose a number of commercial uses, but not all, and would get more industrial uses. Tokos briefly covered the list. Croteau wondered if it would be a reasonable compromise to write those uses as conditional instead of outright. Tokos noted that when we do the consolidation, we are talking about three other properties too. Fisher said that he doesn't want to see this end up in court because we took away somebody's right to use their property. He added that maybe after Lawson has the property being used or it is sold, that would be the time to go in and classify it differently. Tokos said we don't want to be guessing what a court may or may not do; that gets very complicated. He said he wouldn't be shocked if this ended up there. He said Lawson feels very strongly about this. Patrick said that he wants a use code; not SICs. Patrick said personally he would want to combine the two and make those uses conditional so we get some say on it. Fisher suggested leaving this alone and coming back in a couple of months to see what has happened to the property. Tokos said since we are doing use categories, we have to set uses in place for I-2. We could put in categories and come back later. Small said he is not interested in making an individual happy and structuring what we do because they complained loudly. He doesn't want to see rules change in the middle of the game. He said to either leave the I-2 distinction, or, if practical, set those as conditional uses. Patrick said the more he thinks about it, he doesn't really want to go that way. Small said then to leave all the industrial and do groupings. Sarazin agreed with that. Tokos suggested holding off making that motion so testimony can weigh in on what we have been talking about; and then the Commission can make a motion.

Testimony: Dennis Bartoldus, PO Box 1510, Newport, came forward representing GVR properties (owned by the Tryon family), which is the 15 acres on SE 40th. He said they don't really care if the City keeps the current grouping and does something with I-2 or as a new program with new I-2 zoning on that property. As he reviewed with Derrick, at the end of changing the zones there wouldn't be I-3, so they were just proposing I-1 and I-2 for their property. If the City does that, they will request that. If the City leaves it alone, and it doesn't affect I-3, they are okay with that too. He said that when the property came into the City, they worked on the zoning. If anything is different, they would like to look at it first.

Kathy Cleary from Nye Beach suggested considering what the highest and best use of that property is. She said it is a very particular type of property. She doesn't think a lot of commercial uses would do well there. Regarding Nye Beach, she said that she was at the meeting and participated in the discussion. She said it was pretty much a consensus on the corrections they would like to see made. She said the biggest concern is to have a say on what goes in Nye Beach. Membership based lodging was one of her concerns, and it has been pulled. She said it is important for them to have input on what goes in. That being the biggest issue, she personally feels comfortable with the direction Tokos is going. Small asked if she felt 1,500 square feet is a reasonable threshold; and she said it maybe could go a little higher, but their goal is to stay under 2,000 square feet. If the use is commercial and residential, the 1,500 square feet would only apply to the commercial. There was discussion about that applying to one commercial building or being compartmentalized.

Chuck Victory from Nye Beach joined Cleary. Victory said that in Nye Beach you are looking at small lots. He said 1,500 is about average, and he is concerned that a 2,000 square-foot footprint could take up a couple of lots. He said they are trying to keep it a village with village appeal. He said that is where the 1,500 square feet came from. It was to eliminate or prohibit a big business coming in there. He said that 2,000 square feet is not bad, but what happens if someone builds a one-story.

Cleary noted that the design review overlay will sunset, and it will have to be reviewed. She said that she is all in favor of that. She noted that there were a lot of special interests at the time it was created. Some of the issues can be addressed at that time. Under the Nye Beach overlay, there are different rules that promote the kind of growth appropriate for the Nye Beach district. East noted that if there is 1,500 square feet per floor, you end up with a big building on a small lot. Tokos said the Commission could parse this any way they feel is appropriate. You can use gross floor area, gross floor area per business or per occupied space, or by footprint; they all have different impacts. East said that if we go by per foot, with residential above it will look like Archway Place. If this was adopted, we would have to have some additional architectural review. Patrick noted that lot coverage is already in the design review; lot limits anyway. He said if it's 1,500 feet of use, the Planning Commission will hear every one. Tokos said footprints or gross floor area is easy in terms of application. Patrick asked Cleary and Victory to tell the Commission what they are trying to accomplish. He wondered if their concern was just eliminating something outright if the scale is too large. Cleary said they want to have input on something like a big hotel or offices. Instead of allowing it outright for a commercial and residential mix, they are suggesting limiting it to 1,500-1,800 square feet of gross floor area only for the commercial; the residential doesn't count. So, if someone wants to go over that, they still have to go to the Planning Commission; and the public can have input. She said they didn't want to give up that right to say something even though it may still be approved after that. East asked for confirmation that they don't want to see a multi-use building for 1,500 square feet per business. Cleary said if they want to throw it back to the Nye Beach community, they are happy to work with it. They may need direction on how to deal with that big building; may have to look at height. Patrick said that he doesn't want to have a hearing

for every development. He wondered what would be the things someone can do down there without showing up here. Victory said that if you go back to the Nye Beach overlay, one of the things they wanted to do was keep the historical village look. He said Nye Beach has its image, and it is important that image of a village environment be maintained. He said that is the number one. It gets into how we are developing the neighborhood. He said that on the lots at Coast and Olive, they would rather have six little businesses or buildings in order to maintain what they are trying to have down there. He wondered what is going to dictate business versus village. He said they talked about nice-sized businesses down there and preventing someone from buying two lots and building a gigantic store. Tokos said that if they want language that defines that it is area of use, he can come up with language that defines that clearly; such as “each individual business is limited to a size threshold”, or something like “the building can exceed the threshold, but each business is under the threshold”. Fisher wondered if a building with a 4,500 square foot footprint with three businesses at 1,500 square feet each (small businesses and yet the total building is much bigger) meets the community’s desires. Victory said that is what Moon Shadow was going to be (a 100-foot long building). He said if Tokos can come up with language that gets away from something like Moon Shadow or Archway Place and uses the lots that are there, that might work. Patrick thought it needs to trigger based on the size of the business and secondly on the size of the building. The 1,500 square feet works for businesses, but that doesn’t take care of the problem of giant buildings. He said it has to be something concrete. Cleary would like to see something built in the Nye Beach overlay about scale and impact to avoid another Archway Place. She said that if we allow three sections of 1,500 square feet each in a 4,500 square-foot building, we could require that the architecture be different on each. She wondered if it were possible that could be part of the overlay. Fisher said as he remembers a lot of merchants didn’t mind that unpaved lot being used for free parking. Nobody was willing to buy it and make it into what they wanted. He said that Archway did provide off-street parking. They reduced the amount of usage and made it into parking area. Patrick said he can see where Nye Beach merchants are going, but he doesn’t have a clear understanding. He needs clarification as to what they are trying to do, and then Tokos can come up with that language. He doesn’t want to have a hearing for everything that goes down there. Victory said that in San Francisco you see buildings where each unit is an individual unit because of nice architectural changes. Fisher said he thought the Commission had asked the merchants to write things down on how they would like to see things look. He said maybe we need to have a couple of Commissioners meet with them and come in with a concrete proposal.

Sarazin thought the discussion was blurring between the overlay and the zoning code. Tokos said the objective of the code change is to go away from SICs to something that makes more sense. Getting into group uses impacts what occurs on each property. The Commission wanted changes to be as limited as they can so we are not upsetting people when trying to make it an easier code. In the C-2, there would be a lot more uses allowed than currently. He said that the Nye Beach overlay is an effective tool to triage that. He noted that the threshold for what is allowed or not needs to be set right. He said that one approach the Commission can take is to set this out to July 25th and ask that staff meet with the Nye Beach merchants and come up with whatever the appropriate threshold is. It will have to be in the overlay so that it doesn’t apply to all C-2. That would also provide some time for staff to deal with the industrial uses.

MOTION was made by Commissioner Small, seconded by Commission Sarazin, to continue the hearing to July 25th and direct staff to meet with the Nye Beach merchants to develop an appropriate size threshold for the Nye Beach overlay before a conditional use permit is required and for staff to come back with a proposal for use groups in the industrial zones. The motion carried unanimously in a voice vote.

Small said that when staff meets with the Nye Beach Association, if it would be appropriate to have a representative from the Planning Commission, he would volunteer to be part of that discussion. East said that he would like to see examples of different neighborhoods that the Nye Beach Association would like to model Nye Beach after.

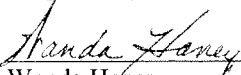
E. Unfinished Business. Fisher asked about the meeting Tuesday, June 14th at 7:00 p.m., and Tokos confirmed that the City Council will be considering the geologic code again with a public hearing at 7:00 p.m. Tuesday. He also noted that Monday, June 20th at 5:00 p.m. is the joint City Council/Planning Commission work session meeting.

F. New Business. No new business to discuss.

G. Director’s Comments. No Director’s comments.

H. Adjournment. There being no further business to come before the Planning Commission, the meeting adjourned at 8:23 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant