

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, October 13, 2014

Commissioners Present: Jim Patrick, Mike Franklin, Lee Hardy, Gary East, Rod Croteau, Bill Branigan, and Bob Berman.

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

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Franklin, East, and Branigan were present.

B. Approval of Minutes.

1. Approval of the Planning Commission regular meeting minutes of September 22, 2014.

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

C. Citizen/Public Comment. No public comment.

D. Consent Calendar.

1. **Final Order for File No. 4-CUP-14.** Approval of a final order for a conditional use permit as submitted by Great American Yogurt & Food Co, dba Mt. Angel Sausage Co (Jim Hoke) (Chris Minor, authorized representative) (Jack's Seafood, Inc., property owner) for restaurant/retail use at 460 SW Bay Blvd. The Planning Commission held a public hearing on this matter on September 22, 2014.

MOTION was made by Commissioner Berman, seconded by Commissioner Croteau, to approve the final order for File No. 4-CUP-14 as presented. The motion carried unanimously in a voice vote.

E. Action Items. No items requiring action.

F. Public Hearings.

Patrick opened the public hearing portion of the meeting at 7:03 p.m. by reading the statement of rights and relevance applying to the hearing on tonight's agenda. He asked the Commissioners for declarations of ex parte contact, bias, conflicts of interest, or site visits. Franklin declared that he had driven by the site today; and Croteau, Patrick, and East had each made a site visit. Patrick called for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard.

1. **File No. 5-CUP-14.** Consideration of a request submitted by Wyles Sanders (Rebecca Lytwyn, Oregon Coast Bank, authorized representative) (Oregon Coast Bank, property owner) per Chapter 14.03.050(E)(7)/"Residential Uses" of the Newport Municipal Code (NMC) for a conditional use permit in order to operate a daycare facility in an R-3 zoning district on property located at 125 NE Lincoln St. Unit B (Assessor's Map 11-11-09-BA; Tax Lot 502). Should the Commission decide to approve the request, a Final Order and Findings was available for adoption this evening as well.

Patrick opened the hearing for File No. 5-CUP-14 at 7:04 p.m. by reading the summary from the agenda. He called for the staff report. Tokos noted that the Commissioners had received the staff report and submissions that contain the criteria and the applicant's submittal material. He also had the entire record in front of him, should it be needed. Tokos said, as has been noted, this is a conditional use permit application for a daycare at 125 NE Lincoln Street, which has been operating for a few years now. They didn't get a conditional use permit. He doesn't believe it was intentional, but just an oversight on their part; and they have come back to correct that through this application. Tokos noted that the criteria for approving a conditional use permit can be found in NMC Section 14.34.050; and he read through those. He said that the staff analysis goes through each of these standards and discusses them in detail. There are a few conditions of approval that he would recommend be attached; and he thinks this application satisfies these

standards with these conditions. He noted that the first condition is one we would require of all conditional use permits; and that is that what the Commission is approving is what is presented and nothing more. It's limited to the documentation provided.

The second condition he thinks gets at sorting through whether there is an occupancy change when you convert a single-family residence to a daycare. An occupancy change would go to this unit having fire sprinklers, and there are strict firewall requirements as well. There were some changes to the law that allow "family child care homes" to stay under R-3 occupancy. Tokos thinks that's appropriate and should be left in place. Since the departure of our Building Official, Tokos has been working on this question with Al Eames of the County who has been filling in and also with the State Building Official to receive further interpretation. As long as it is under the "family child care home" definition, Tokos thinks it's okay under R-3 occupancy. He noted that the certification documents didn't say that specifically. He talked to the lady who certified this facility; and she gave this a classification of a "family child care home" within the meaning of the statute. So it could stay in R-3 occupancy, which means it would not have to change to the stricter building code standards. He had the Building Official walk through this to see if the condition proposed is appropriate. Tokos thinks we should have the documentation from the State Child Care as part of the record; but he thinks that issue has been addressed. A member of the audience had brought that State certification and provided it to Tokos.

The next condition has to do with written confirmation from Lincoln County Public Works that Lincoln Street is adequate from their perspective. Lincoln Street is under the County's jurisdiction. There has been talk about potentially getting that transferred to the City; but that hasn't fully progressed yet. Tokos noted that in the packet was an email from the County Engineer regarding this; so he thinks this condition could go away because it has been addressed.

The next condition is that the property owner should designate a public access and utility easement covering the portion of Lincoln Street that is not within public right-of-way. This development was pursued by a private developer; and then the bank took it over. The original developer did a partition and zoned to establish condominiums. He ended up widening the road but extending it onto the property where the condo is that is now the bank's property. It's only twenty feet wide; but part of the right-of-way is on bank's property. There are utility lines in that area also. For the public facilities to be adequate, the provider needs to maintain them; and to do that, they need this access. What this condition requires is that the bank put in place a public access and utility easement over the balance of the right-of-way and utility lines so the County can maintain the full street section and the City can maintain the water and sewer lines; and the electric company the same. If at some point, the City gets jurisdiction of the road, we would have that easement for street maintenance. There is no need to make it to a specific jurisdiction.

Tokos noted that the last condition deals with the off-street parking requirement that the City has and applies to all forms of development. It is fine for a duplex; but when you add daycare with a maximum of sixteen children, it brings a greater demand for off-street parking. The City has ratios that it uses. For child care, it is one space for every four children served; so the code requires that they have four off-street spaces. They don't have that now. The bank controls most of the balance of property as well; so there is room to construct additional off-street spaces. Tokos said that the Commission is well within a safe area to find that they can provide those spaces and need to come up with a plan. We can then address it at staff level. Tokos felt that with those conditions, the Commission can certainly find that this application can satisfy these standards and, thus, approve it.

Berman noted that Tokos said the utilities and part of the street are not within the public right-of-way. You would have an easement for utility access; but he asked if that also included maintenance of the curbs and pavement. Is that all wrapped up into one? Tokos said the Commission could draft it as "public access/utility" to cover both sides. Berman asked if Tokos had a timeframe for developing four parking spaces. Tokos said he would suggest six months. There is room for the Commission to come up with whatever they feel is appropriate. Typically we have a certificate of occupancy as leverage before everything is final. In this case, they are coming back after the fact; so he felt it prudent to have follow-up steps to take to set a timeline. He said six months if the Commission feels that is reasonable. Patrick asked about a setback from the easement. Tokos said with easements as opposed to rights-of-way, we don't put measuring against an easement. It could be an issue if it were dedicated as a right-of-way; but he thinks an easement is sufficient in this case.

Proponents: Jill Meengs, Oregon Coast Bank, came forward. Meengs said that she works with Wyles Sanders who provides child care basically to the bank employees. Meengs did provide the letter from the State certifying them as a "family child care home." The facility has to meet State qualifications as a residence. She noted that they did make a few small changes when they got the original qualification; things such as the fenced yard and a second fire exit from the second story. She said someone could live there today and not know it was a daycare. She noted that the bank does own the duplex. The majority of the rest of the property they don't own any more; they sold it. She said

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but they can take a look at the off-street parking and make it work as best they can. She asked what if there is no suitable area for that, if they can get maybe two spaces, is there something they can do as far as talking about that. Tokos said that there's not a whole lot of flexibility in that. He said it's his understanding that the bank owns the property just to the north between the duplex and Yaquina Heights Road. Meengs said that she wasn't involved in the sale of the property, but she will be checking on that to see what the options are. She said they do want to rectify the situation and make sure the daycare can continue to operate. There are a number of children and families that depend on it. It also employs four to five people. She said it's an important part of the community.

Patrick asked if the other half of the duplex is rented. Meengs said it was rented to a local fisherman and his wife and family. Branigan said the action was well noticed, and there were no letters of opposition from them. They had an opportunity. Meengs said that their kids come and play with the daycare children.

Branigan noted that in the documents, it says that the capacity is capped at 16 children. He asked if there are any plans to expand that; or is that part of the license, based on square footage? Meengs said they can't go larger in this facility. The 16 works for what they need. Croteau asked if they are at capacity. Meengs said they are not at capacity now. It was only recently that they increased to 16; it was 12 for a long time. They have had between 10-12 children consistently with a couple of part-time or drop-in. She said they plan to stay 16 or less. Patrick said he sees their only problem being finding parking spaces. Tokos said the bank has been talking to Rich Belloni, who purchased the property for development; and there are some ways to make that work. There will be some area not suitable for subdivision area. Tokos said there will be a way to get there. Berman asked if six months is long enough to get it resolved. Tokos said there are no further actions to get parking; six months would be reasonable.

Eric Greenwold, 860 SW Pine Ave, Depoe Bay 97341-9654, also testified as a proponent. Greenwold said that both he and his wife work for the bank and have two kids that go to the daycare; his daughter since day one of the facility, and his son as soon as he was eligible. He said the daycare is very important to his family. It is important to those who work at the bank and to others. Greenwold added that the daycare staff is wonderful.

There were no other proponents present wishing to testify.

Opponents or Interested Parties: There were no opponents or interested parties present wishing to testify; so rebuttal was waived.

Patrick closed the hearing at 7:21 p.m. for Commission deliberation. Branigan said with what he sees in the file and with the caveats that Tokos mentioned (the easement; the parking; and the six months) it's more than adequate. He said the daycare is very good for the community; especially for bank employees. He would recommend that the Commission go ahead and approve the request. East and Franklin both agreed. Croteau thought the criteria are met; and he was willing to approve with the conditions. Berman agreed and complimented the bank for undertaking this. Hardy thought if the conditions are met, it's a good idea. Patrick agreed that it should meet the conditions; but striking condition number 3 because it has been addressed.

MOTION was made by Commissioner Croteau, seconded by Commissioner East, to approve File No. 5-CUP-14 with the modified conditions. The motion carried unanimously in a voice vote.

G. New Business. No new business.

H. Unfinished Business. No unfinished business.

I. Director's Comments.

1. Tokos informed the Commissioners that the Planning Commission meeting on October 27th will be cancelled; but Tokos will be holding an informational meeting at City Hall regarding the property purchase in South Beach and the Plan amendment needed there. It's about a 2.3 acre piece at the intersection of 35th and 101 (the Schones' piece; the old Flashbacks area) that is an Urban Renewal acquisition. Tokos will be doing outreach that evening. He noted that the Commissioners are welcomed to attend.

2. Tokos noted that there will be a public hearing on November 10th regarding the sign code for electronic message signs to be permitted in public zones. As discussed, he basically drafted the code for public zones as it's currently allowed in commercial zones. He said that the Commission has a lot of leeway as long as they stay out of content. Tokos has received a few emails opposed; but there are also proponents. So the Commission is liable to hear from both sides. Berman asked if all it would say is it's extended to public properties; no other restrictions. Tokos said it's

the same approach; there are the same allowances. There's a little more to it than that though; there are some more changes in the code. But at the end of the day, that is what it does.

3. Tokos said that work is continuing with the County and the City on the Natural Hazards Mitigation Plan for disaster relief funds. There is a meeting with the County on October 24th to continue work on that. It will have to come before the Planning Commission for adoption; probably in December.

4. On November 5th, Tokos will be holding a public workshop on the Agate Beach Wayside improvements. That project has been moving forward. Those are the plans for the bathrooms, shower, and trail. He explained that the concept for the trail is a boardwalk. It has been a long time since we have been out in the community with that. The best he will have for that meeting is a concept, a survey, and a geo-tech report; but it will give folks a chance to share their thoughts on the various components. He said the boardwalk is not going away. Federal funding comes with catches. The boardwalk is part of the solution; what it looks like is another matter. The geo-tech report will form that somewhat. The boardwalk is a piece; just as are the restrooms and shower, clearing out to the highway, and extending Gilbert. The motel access will tie into the Gilbert extension. The question is whether to make that a full two-way or restrict it on traffic with no outlet on 101 so they have to go up to the signal. Those are some things to discuss later. In mid-December, we may be able to have a couple of designs. November 5th will be an evening meeting to accommodate the public.

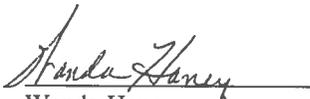
5. Tokos noted that Hardy will participate on the student housing oversight group that has been fired up. There will be three meetings; the first on October 29th, and two in November. OSU has a couple of people staffed. This is part of the targeted study of issues for when they go before the Legislature. The City will need to adopt and make changes to the code; and this will give a sense of what we need to do. That will follow. It will just be an initial report they can use. Berman asked what kind of code changes. Tokos said policies or options to provide direction on what the City's role is in facilitating that kind of construction. After those meetings, it will make more sense. There's no guarantee of changes, but there's a good chance there will be some. There could be a policy option for whether the City should engage or not. There are ways we can help; for instance by forming economic improvement districts.

6. Tokos noted that Patrick had helped with the Building Official recruitment. Tokos will be offering the position to Joe Lease, Chief Building Official in San Luis Obispo, who has the full range of certifications. We could reduce, if not eliminate, contract work. Tokos will be talking to Lease tomorrow. They have been exchanging voice messages. Tokos said the interview panel did a great job. They interviewed nine people over a day and a morning. It was a lot. Tokos did final interviews with three of the four finalists. There were two he felt comfortable with; and there was a clear A and B. Hopefully, we'll get the A candidate.

7. Croteau asked Tokos if he had any comment about the bicycle pump track addition to Coast Park. Tokos said he didn't have any comment on that. He hasn't been close to that; it has been the Public Works and the Parks Departments.

J. Adjournment. Having no further business to discuss, the meeting adjourned at 7:33 p.m.

Respectfully submitted,


Wanda Haney
Executive Assistant