

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers by Video
May 26, 2020

Planning Commissioners Present by Video: Jim Patrick, Lee Hardy, Bob Berman, Gary East, Jim Hanselman, and Mike Franklin.

Planning Commissioners Absent: Bill Branigan (*excused*).

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners East, Hardy, Berman, Franklin, Hanselman, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of April 13, 2020.

Commissioner Berman submitted minor corrections to the April 13, 2020 Regular Session meeting minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner East to approve the Planning Commission Work and Regular Session Meeting Minutes of April 13, 2020 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.** None were heard.

5. **Public Hearings.** At 7:32 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Franklin, Hanselman and Patrick reported site visits. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 1-CUP-20.**

Tokos reviewed his staff report. He noted the public testimony that was submitted by Charlotte Boxer, and Stephen Webster. Tokos reviewed the criteria and explained how the applicants have met the criteria. Tokos noted that the business would not be considered a grocery store, but a boutique store. He noted there may be minor changes

Berman asked about the ancillary use compared to the Rogue operations. Tokos explained it was a little different and subjected to conditional use permit so the Commission could scale based on what was coming into the area. This area was more scaled toward retail and something to think about. Berman asked if the angled parking on Bay Blvd would be affected by the project. Tokos would have the applicant speak to this.

Proponent: Dustin Capri entered the meeting by phone. Berman asked for comments on the angled parking and to address Charlotte Boxer's concerns. Capri noted that where the existing curb cut was it not modified to allow access for Boxer. There would be a curb cut to the west and two spaces would be moved. Tokos noted that currently it was used as an overly wide driveway and didn't need to be as wide as it was now. If

the driveway was shifted to the west, parking spaces would be striped on the east side. The driveway would become narrower and there would be sufficient room on east side to add them back. Capri didn't know if owner had an clear objection to the barrier that Boxer asked about. Hanselman hoped that the Egger wanted to be a good neighbor could work something out with Boxer. Capri noted both parties had talked and would work it out.

Berman asked about the 4-foot setback on the retaining wall and if this would create a space open for trash or homeless people. Capri explained this was a concern they had and was a part of the design. One side of wall would have a barrier to prevent people from going in that area. Capri noted the egress could be used to maintain the area. Berman asked if the wall belonged to the property. Capri thought it was built for the apartment building to the north. He thought it was more of an encroachment and built under the old owner. Capri guessed that it was encroaching due to a lack of a survey.

Patrick asked if the manufacturing on the property would have any biological load. Capri said they met with Tim Gross in Public Works. They discussed how the potential requirements would be addressed in the Civil plan submittal.

A discussion on what type of retail would happened at the property, with Capri listing what would be sold. East noted that Basics had three other locations and their information was available online for reference.

Charlie Egger entered the meeting by phone. He shared that they had a farm in the Willamette Valley and produced milk, beef, pork, and chicken products. The intention was to provide these products in the market.

Hanselman asked if they would be looking into selling seafood. Egger explained that they were resistant because of other markets on the bayfront and they didn't necessarily want to compete with them. There may be fish but would partner with someone local.

Berman noted that the Tualatin store sold beer and wine and asked if they would be doing this and if so, would it be a major or minor focus. Egger explained they wanted to do so as a minor option. They don't want to serve onsite alcohol, but would be a takeaway. Patrick asked if the restaurant would have service. Eger explained that they didn't intend to have full restaurant and it would be more of a grab and go take out instead of a full scale restaurant. Patrick asked how they felt about the condition that the food manufactured onsite would be principally marketed onsite. Egger said their intention was to sell as much as they could in the market. They couldn't guarantee the percentage and might sell some of the product at other locations.

Hanselman asked if business plan could include small classes for cheese making. Egger reported that they sometime did cooking classes and other topics in some of the stores. They don't have a space in this project but it could be done. Hanselman liked the idea of doing classes. He asked if Basics would work with local small business owners that produced fruits, vegetables and meat products and referenced the many local producers that sold at the Farmers Market. Egger explained that their intention was to use as much local produce as they could. He noted they weren't likely to ship milk from the Willamette Valley farm and planned on partnering with a local source for this ingredient.

East asked if the scaling of the Newport location was similar of other locations or smaller. Egger said all locations are unique and this would be first manufacturing with retail. He noted the business would be one of the middle sized locations.

Stephen Webster entered the meeting by phone and read the letter he submitted into the record.

Opponents: None were heard.

The hearing was closed at 7:51 p.m.

East thought this was a great addition to the Bayfront. Parking was always a concern there and there needed to be some input by the owner on how to manage parking for staff. He was in favor of approving. Hardy thought it was a good proposal and had no objections.

Berman agreed that it would be good and was concerned about parking. He asked if this area would be slotted for metering. Tokos confirmed it would be in a location where they would be implementing meters. Berman thought employee parking would be an issue, but he was in favor of approving. Franklin had no problems with approving.

Hanselman thought it was a good use of the property even though the parking would be a problem in general. He noted that Webster's comment on the appearance on the Bayfront had always been a concern for him. He didn't like the 24-foot signs they had, but thought branding would be important and was okay with approving. Patrick thought it met with the conditions and had no problems with it.

MOTION was made by Commissioner Franklin, seconded by Commissioner Berman to approve File No. 1-CUP-20 with conditions. The motion carried unanimously in a voice vote.

B. File 1-CP-18 / 3-Z-20.

Tokos gave his staff report. He noted the public comments received by Julia Romero that had questions on how the changes related to hospice care and her concerns on the City and State activities on nearby properties. Tokos reported that he had received questions on existing day cares, the Montessori School, and the ambulance company in Nye Beach on whether or not they could continue operating. He explained that they could but the operations would become nonconforming.

Berman noted that on Page 3 of the Staff Memo in the first paragraph on the second line it said "multi-family" with a comma. He thought the comma should be removed. Derrick noted this was in the staff report and would correct it moving forward. Berman noted that on the first line of Page 61 the word "SIC" should be taken out if correcting the text. He asked what the quotes were before each paragraph on Page 68. Tokos explained it was a function of how the chapter was formatted and could adjust it.

Berman wanted confirmation that there was general consensus with the Commission didn't want to require a disclosure on properties in the zone. Hardy objected to this and asked what the rationale was to not acquire a disclosure. Tokos confirmed there was a general agreement with the Commission at a previous works session meeting not to require it. Hardy noted that one of the excuses was they would have to get legal review and that would be an obstacle. Tokos asked for what purpose would they need a disclosure. Hardy explained it would be for safety and welfare, and should be the goal. Tokos noted that this was required under O.R.S. 93 that anybody buying property had a responsibility to go to the City of Newport and understand what the land use regulations were. If the overlay was put in place, it would be part of the land use regulations. This would then create a built in disclosure statement that is on the deed document. Hardy noted that a lot of people didn't follow through on this. Patrick noted they couldn't hold everybody's hands and there were certain legal ramifications for trying to move property with disclosure statements. He thought the City should stay out of requiring a disclosure. Hardy didn't think it would make the City liable. Franklin asked if there were disclosures for tsunami and earthquake zones. Tokos explained that there was a long discussion on disclosures when reviewing the geologic hazards zones that had a lot of public outcry on having disclosures added. This was why it wasn't included. Tokos reported that the standard real estate disclosure had an addition for geologic hazards added to it, just like flood plains. Patrick asked if there was any will of the Commission to add a disclosure. Only Hardy was in favor.

Berman noted on Page 92 of the packet that number 11 on the first list was the same as number 4 on the second list. He didn't think it needed to be on the second list. Tokos explained both dealt with different things and why they were both on there. They applied to different uses in the different sections. Tokos did note that it should say sub-sections. He explained that number 11 applies to uses 1-10 in the XXL and B.4 applies 1, 2, and 3 of sub-section B. Berman didn't agree that it needed to be repeated. Tokos would run this by the City Attorney to see if there was a better way to reword it. Berman said he would let this go.

Berman asked about on Page 95 of the packet, what was the definition of an assembly area. Tokos explained it was on the Tsunami evacuation maps and was where people were supposed to go if there was the Cascadia earthquake. Berman asked if the property owned by the Grusing's, who submitted public comment, was in

the tsunami hazards zone. Tokos said it was impacted and in the XXL zone. Berman asked if there was a safe place for the uses when only part of the property was in the XXL zone. Tokos explained that he thought their property was entirely in the XXL zone. If a property wasn't entirely in the tsunami zone, and a portion of the property was outside of the zone and was developable, the owners wouldn't be subject to the limitation of the overlay zone.

Patrick asked if the graphics on Pages 85-89 could have updated graphics. Tokos said these were legislatively adopted and would take a legislative change, and update the shoreland rules. Tokos noted they could duplicate the areas and try to get it cleaner. As long as they didn't modify the boundaries of the regulatory areas, they would be okay.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to forward a favorable recommendation to the City Council for File No. 1-CP-18 and 3-Z-20 to incorporate Section 14.46 in the Newport Municipal Code to establish a Tsunami Hazard Overlay Zone. The motion carried in a voice vote. Hardy was a nay.

C. File 2-Z-20.

Tokos gave his staff report. He noted the additional public testimony received by Wendy Engler and Jan Kaplan. Tokos noted that he had talked to neighbors who were in favor of the changes.

Berman asked what the blue line were. Tokos explained they were tax lot lines. Berman asked what the stripe was. Tokos said he didn't know and would have to look into it. He thought there was probably some history with it.

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to forward a favorable recommendation for File 2-Z-20 for the City Council review. The motion carried in a voice vote. Hardy abstained.

Hardy didn't think street improvements would preclude somebody building a large house on property they owned. She didn't understand the correlation between putting too much money in the street to allow that to happen. Tokos explained that Cliff Street was designed to be a mixed pedestrian/travel roadway that facilitates a little more density with residential on top of commercial. The street didn't need to be robust and detailed if looking to have single family homes built there. Hardy thought construction of SFD would take a lot of pressure off of inadequate parking in the Nye Beach area, as opposed to the shops that are located there now. She didn't think it made sense that the street needed to have commercial with apartments above.

6. **New Business.** None were heard.

7. **Unfinished Business.** None were heard.

8. **Director Comments.** Tokos thanked everyone for their patience doing a video conference meeting. He didn't know if the June 8th would be the same type of meeting and would keep them in the loop.

Berman expressed interest in seeing the applicants in the video meetings. He thought it would have more meaning to see the participants. Tokos didn't have a problem with this and would prefer it. He noted that the City's IT Department had concerns on this and would check back in with them on this.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:36 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant