

Minutes  
**City of Newport Planning Commission Regular Session**  
**Monday, January 11, 2010**

**Commissioners Present:** Jim Patrick, John Rehfuss, Glen Small, Mark Fisher, Dawn Newman, Gary East, and Melanie Sarazin.

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

Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:10 p.m.

**A. Approval of Minutes.**

1. Approval of the work session and regular session Planning Commission meeting minutes of December 14, 2009.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Sarazin, to approve the minutes of the Planning Commission meetings of December 14, 2009. The motion carried unanimously in a voice vote.

**B. Citizen/Public Comment.** There was no public comment.

**C. Consent Calendar.** There were no items on the consent calendar.

**D. New Business.**

1. Temporary Structures Permit. A request submitted by the Port of Newport to locate a temporary mobile office on their property at 600 SE Bay Blvd to provide temporary office space for US Customs and Border Protection until renovation of the Terminal and construction of the Port's new office/operations building is completed.

Patrick read the summary of the request from the agenda and noted that this is not a public hearing. Tokos noted that he had put together a memo addressing the request, which the Commissioners received in their packets. Tokos said that he believes the criteria are met. The structure is already on site, and the Port is coming back to clean this up.

**MOTION** was made by Commissioner Rehfuss, seconded by Commissioner East, to approve the temporary structure permit as requested in File No. 3-TSP-09. The motion carried unanimously in a voice vote.

**E. Public Hearings.**

At 7:14 p.m., Chair Patrick opened the public hearings portion of the meeting by reading a statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contact, bias, or site visits. Fisher noted that he drives by the site almost daily; and Rehfuss, Small, and Newman all declared site visits. Sarazin declared that she would have to abstain because she is acting as secretary for the parent company and stepped down.

1. File No. 1-NCU-09. A request submitted by Lincoln Development Company (Dennis Bartoldus, agent) per Section 2-5-1/"Nonconforming Uses, Lots, and Structures" of the Newport Zoning Ordinance for approval of the expansion/alteration of a nonconforming use in a C-3/"Heavy Commercial" zoning district to expand an existing nonconforming trailer park by adding eight additional mobile housing units next to the existing trailer park.

Patrick opened the public hearing for File No. 1-NCU-09 by reading the summary from the agenda. He asked for the staff report. Tokos noted that the staff report was included in the Commissioners' packets. He added that this is the first application under the new nonconforming use code that went into effect January 7<sup>th</sup>. The property is located at 618, 634, and 636 NE 3<sup>rd</sup> Street. The use is an existing trailer park. The expansion area involves approximately 2600 square feet. Tokos noted that, as the Commission will hear from the applicant, they are scaling back on their application. Their request will be just to add the two units that have already been placed and have not yet been occupied. Tokos noted that this particular applicant previously sought a legislative zoning code change to the C-3 zone where they had placed two manufactured homes. After the homes were placed and the development process continued, it was discovered that the homes were not within the perimeter of the existing trailer park and were not allowed in the C-3 zone; so they were not able to occupy the homes. The applicant chose not to proceed with the legislative process, but rather chose this new method. Tokos noted that the applicant has to prove that they have a nonconforming use and what the nature of that use is. Then they can move for expansion if they show that it creates no greater adverse impact on the neighborhood. Tokos said that staff had some concerns noted in the staff report. A scaled site plan is important because we need to know exactly what we are talking about for the improvements and what exits. The application doesn't have that. In addition, the applicant has stated that the use is nonconforming, but there should be some tangible evidence provided to substantiate that. Tokos encourages the Planning Commission to require these things. Tokos said that there are a number of conditions suggested if the Commission

believes there is substantial evidence to make a decision tonight. Many of the conditions relate to adding eight units not to the existing scaled-down application. Tokos said that when the request involved adding eight residences, the requirement for sidewalks probably would have been justified; but the Planning Commission may not want to require that for only the two residences. Instead, they could require a waiver of remonstrance so the applicant will participate in an LID. Tokos said that the findings from staff are that this is sufficient for two residences. If more residences were put there, the improvements would be warranted. Some of the conditions are not necessary just for two additional units. Whether eight would fit is not clear, but the two are already placed there. We have a good sense of where they are. Regarding the paving requirement, there would be only two additional gravel driveways; which may be acceptable. With two residences, the applicant will not be doing the looped driveway as they were with the eight new units. Tokos said that if the Planning Commission believes additional information is needed, he would encourage them to advise the applicant what additional information they feel they need and then could continue the hearing to a date certain. In response to a question from Reh fuss, Tokos noted that the applicant's first application was not denied; it was never completed. They now have applied under these different code provisions.

**Proponents:** Dennis Bartoldus, PO Box 1510, Newport, representing the applicant, Lincoln Development, came forward as the proponent. Bartoldus noted that they are modifying their application hopefully to cut through a lot of issues. He said this is the first application of its kind since the adoption of the nonconforming ordinance update. Having learned what some of the issues were, Bartoldus had prepared a packet of additional submittal materials for the commissioners. The first item was a site plan showing the two units being added to the property. He said that this has been a long project and gave the history. Bartoldus explained that when the two homes were placed on the property, they thought they were in compliance. They went to get an occupancy permit and were told that they didn't qualify. The prior planning director suggested addressing the issue through a legislative text amendment indicating that trailer parks could be an outright use in C-3 zones. That request went through Planning Commission review and was about to go to the City Council when the nonconforming use amendment came along. Then the City thought they would choose to address the issue that way, so the C-3 zone amendment was put on hold. This process was followed because the City adopted changes to the nonconforming use section with both the Planning Commission recommending adoption and the City Council approving it. Bartoldus said that, as mentioned earlier, one of the reasons for expansion of a nonconforming use in this area that adjoins the trailer park is that they are trying to provide more low income houses. Bartoldus said that they are trying to address this issue because people come to Mr. Ouderkirk when they have been turned down elsewhere. Also in his packet, Bartoldus submitted a letter from County Commissioner Bill Hall showing what a situation this type of housing is. Their original idea was to submit an application for eight units that wouldn't necessarily go in all at one time. If they had to do all of the paving and sidewalks, it gets hard to provide low income housing; so the decision was made to amend the application and make it just to add the two units that already exist there so that they can get their occupancy permits. Four residential units on four city lots is what they will end up with; one unit on each lot. Bartoldus said he prepared the site plan after taking measurements, and it is on scale. He thinks this addresses the issue of needing a detailed site plan. He also submitted pictures of the site and surrounding area. To answer the question with regard to the existence and how long the property has been used for a trailer park, Bartoldus went to the Assessor's office. He was told that the Assessor was only required to keep records for twelve years, so they don't have a lot of records. All of the Assessor's maps were given to him. One, showing the Eastside Trailer Park, is dated 9/21/81 and is marked "obsolete". The map dated 2/21/79 also shows mobile homes and trailers. Bartoldus also had copies of the file jackets from the Assessor for their account for Eastside Trailer Park, which goes back to 1974-75. Bartoldus said that Ouderkirk has indicated that when they obtained the property in 1993, there weren't many records passed on. There presently are 28 units in the park. That probably is how many existed in 1993 within one or two. In 1977 Bartoldus came into town, and he can recall a number of trailers there. He said you could tell it was a trailer park. Ouderkirk recalled a number of trailers predating 1982. Bartoldus said that this park is very similar to the one that existed where Staples is now. When that ended, there was a displacement of people. That trailer park and this one were in existence for a long period of time. Both had gravel streets. Bartoldus said that their application process has been out there a long time, and they would like to keep moving this on to a resolution. He noted that this park is directly south of the high school and fairgrounds where most of the streets are gravel and there are no sidewalks. The right-of-way may not line up where the street is. Bartoldus said that the applicant is willing to sign a no remonstrance agreement so that if there is an LID or improvement district, they will participate. He said it doesn't seem reasonable to put in sidewalk when you're not sure where it will go. Bartoldus explained what the photos showed and gave distances. The photos showed the gravel streets and driveways and how it would be difficult to know where to put sidewalks. Bartoldus noted that the photos show that the clear vision area is huge. Bartoldus noted that if they see a need to place additional units, they would have to come back and go through this process again. The photos showed the fence along the property line. Also shown was the location of the two houses. The doublewide is located behind a house that previously existed on the property and has been there for a long time. One driveway goes directly into the houses, and the doublewide will be served by that. There are three existing roads in there, and they will be keeping that rather than putting in a loop system. Going through the issues raised in the staff report, Bartoldus said that he believes that the document submitted tonight is a scaled site plan. He believes a determination can be made that there is no clear vision problem there. He said that if he could have had earlier photos, they would have shown that there have been trailers there a long time; at least predating 1982. Bartoldus said that expansion of a nonconforming use doesn't have to meet the strict requirements of what a new trailer park would require. They are proposing gravel driveways. They don't think it should be necessary to have more than one parking space per unit, which is what the ordinance says. Based on the current plan, unless they ask for more units, there are two parking spaces per unit anyway. In terms of the trash receptacle and recycling, that is already provided over by the manager's unit and will continue to be used by this area. Sewer, water, and all services are available. Bartoldus reiterated that they are proposing no sidewalks, but would sign a waiver of remonstrance. Again, Bartoldus said that the purpose here is to provide additional low income housing, and they are adding two

by this application. If they add more in the future, they will have to come before the Planning Commission on another hearing. Bartoldus noted again that being required to do a whole lot of improvements would be a real deterrent to trying to provide low income houses. He said that four houses on four lots will cause no greater adverse impact on the neighborhood. He said that actually the traffic pattern is dictated by the high school. He did a count of cars, and there were 60 on the east campus and bunch more on the west. With an open campus, those cars move throughout the day. Traffic from these two houses will be a drop in the bucket there. In answer to a question from Small, Bartoldus said that they don't anticipate requesting additional units any time soon. If they came in for more, the two older houses would be taken down and mobile units would be placed in the middle area as well as on the far eastern side. Then they would be talking about a circular driveway. The two that are there now would fit in and wouldn't have to be moved. Bartoldus added that in the long term, they are not taking the property out of C-3 use. That is what it may be used for at some point in the future. For the time being, it is an area providing housing within close distance to town. It provides a need and can be done with the present configuration. There were no other proponents present wishing to testify.

**OPONENTS OR INTERESTED PARTIES:** Bob Wienert, PO Box 730, Newport, a stockholder of Lincoln Development and also stockholder and president of Road and Driveway, came forward as an interested party. He said that he moved the business to its location in the early 1960s before the mobile homes. At that time, his property was on the outskirts of town. He said they are properly zoned and comply with air requirements. Wienert noted that he knows that people don't like an asphalt plant in their backyard. He said that he also has property at Harney and 3<sup>rd</sup> Streets used as a commercial service station. If this is approved, the only concern he has is that he thinks there should be some disclosures that there is an asphalt plant there, and they will have to live with it. Wienert said that he is not an advocate of having residences next to industry; but he understands the need for low income housing. There were no other opponents or interested parties present wishing to testify.

**REBUTTAL:** Bartoldus returned to present rebuttal. He noted that he thinks the asphalt plant is a benefit to the community and is glad we have one. He said that he lives four to five blocks from there, and it doesn't bother him. He said he is not sure how they would do disclosures. He noted that they have no objections to the asphalt plant being there. They understand this is a C-3 area, but they are trying to look at a reasonable use of the property until that whole area has a commercial use it can be put to. He said that at some time that whole area will likely be improved. Bartoldus said that he understands Wienert's concerns and appreciates his sensitivity. He added that they have no quarrel with the asphalt plant and wanted to state on record that they will not complain about that. Bartoldus said that one of the points he made in his written findings was that low income housing is a tough issue in any neighborhood. He said that these are really transition homes that provide housing for people that might otherwise have no place to go. He said that having it exist where it has been at least helps buy some time for addressing this issue. They know that it may have to be addressed in a different way at some point. He noted that the trailers are not there forever; that is one of the advantages of mobiles.

Chair Patrick closed the public hearing at 7:59 p.m. for deliberation. Rehfuss asked Tokos if he was still recommending the conditions listed in the staff report. Tokos thought that rather than requiring sidewalks, a waiver is acceptable. He noted that if the Planning Commission wanted, they could direct staff to note that the need for sidewalks could be tied to additional residences. Tokos said the site plan issue is addressed if it is drawn to scale. The vision clearance issue had to do with the previous proposal; especially with the looped driveway they were talking about with the larger development. With the scaled-back plan, the trash receptacle may not be an issue; with eight it was because this area is somewhat isolated. Continuing the deliberation, Small said that in principle, he is opposed to expanding nonconforming uses, but he thinks the criteria have been satisfied in light of scaling back the plan. He thinks that might be different if we were still talking about the original application. Small said that he thinks this scaled-back plan is reasonable. He thinks it would be unreasonable to require sidewalks and paving. He said he is in favor of the modified proposal. Rehfuss agreed that he doesn't like expansion of nonconforming uses. He said that he is aware of how low income housing is hard to get. Rehfuss said that he would be inclined to vote in favor if the conditions listed in the staff report are attached with the modifications that Tokos just talked about. Newman said that it appears that with the new modified plan for only two mobile houses, the criteria have been met. She said that she likely would recommend for approval also. Fisher said that if there were no trailer park there and this application came in, he would turn it down because it wouldn't fit there. He noted that there are 28 units there now, and the number being added isn't what is important. He doesn't like expanding a nonconforming use and thinks it exacerbates the problem of something that shouldn't be there. He does appreciate the fact that the applicant has tried to modify the request so that it would be more readily received by the Planning Commission. Even though he appreciates what they have tried to do, he probably will vote against it because he doesn't like expansion there. East said he also knows that low income housing is an issue. With the minimum amount of units going in, he has a tendency to approve the expansion with the modifications. Patrick said that he thinks that generally the criteria are met. If the request still had all eight units, he would probably be opposed. If the vote is to approve the request, Patrick wants the condition that they sign waiver of remonstrance. He believes this site plan is close enough, the clearance is good, and the trash receptacle is there. Patrick thinks the request meets the criteria.

**MOTION** was made by Commissioner East, seconded by Commissioner Small, to approve the request in File No. 1-NCU-09 with the modified conditions as Tokos had discussed that 1) the applicant sign waiver to participate in future LID and 2) findings noting that should further residential units be proposed on the property, appropriate infrastructure improvements may be required. The motion carried 4-2 in a voice vote, with Commissioners Small, Rehfuss, Patrick, and East voting in favor; and Commissioners Fisher and Newman opposed. Tokos noted that the final order and findings will be brought back at the next meeting.

**F. Unfinished Business.** Tokos noted that on January 25<sup>th</sup> there will be an Urban Renewal Agency meeting to consider some of the planning that came out of the South Beach peninsula study to determine whether they want to adjust funding for improvements in that particular area. Tokos encouraged the Commissioners to attend. It was noted that is why the Planning Commission meeting is shifted to Thursday, January 28<sup>th</sup>.

**G. Adjournment.** There being no further business to come before the Planning Commission, the meeting adjourned at 8:08 p.m.

Respectfully submitted,

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Wanda Haney  
Senior Administrative Assistant