

Minutes  
**City of Newport Planning Commission Regular Session**  
**Monday, August 8, 2011**

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

**Commissioners Absent:** Melanie Sarazin and Jim McIntyre (both excused).

**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 7:00 p.m.

**A. Approval of Minutes.**

1. Approval of the Planning Commission work session and regular session meeting minutes of July 25, 2011.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Small, 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 June 27<sup>th</sup> for further testimony, continued the hearing again to July 25<sup>th</sup>, and then continued again to tonight. The Commission will forward a recommendation on this matter to the City Council.

Patrick continued the hearing on File No. 5-Z-10. He asked the Commissioners for declarations of conflicts of interest, ex parte contact, bias, or site visits. None were declared. Patrick called for objections to any of the Planning Commissioners or the Commission as a whole hearing this matter; and no objections were raised. He called for the staff report. Tokos noted that this is a continued legislative hearing on File No. 5-Z-10. This is part of the work the Commission has been doing to streamline commercial and industrial uses in the zoning code by going away from a pure list and trying to tie it in with industrial classifications in order to use groupings with examples. The reason is that with the SIC approach, it is pretty inflexible. If something is not listed, we have to go through an interpretation with the Planning Commission through a hearing. The SIC code is difficult to follow. The matrix is long. The SIC approach has been discontinued, so the City would have to go with some other classification system; which the Commission talked about in earlier work sessions. Tokos noted that as we went through the process, early on we consolidated the I-2 and I-3 industrial zones since there is only one I-2 zone. With the concepts that were developed, we weren't able to get issues worked out with Paul Lawson; so at the last meeting, the Planning Commission decided not to go through that and to stick with three industrial zones broke down with groupings. The other testimony received was regarding Nye Beach. Business owners were looking for a threshold over which conditional use review would be required so they could weigh in on whether the development was consistent with the neighborhood. 2,000 square feet was already in the code for certain uses; so they felt the way to go was to make that the standard for conditional uses. Tokos noted that the Commissioners had received a letter from Dennis Bartoldus. The GVR property is currently zoned I-3, and he suggests that the Commission consider creating an industrially-oriented retail subcategory in the I-3 zone where hardware and building supply stores would be listed and allowed outright. Also, Tokos handed out a portion of the Economic Section of the Comprehensive Plan with the goals and policies. Tokos believed that it was last updated in the 2005-06 timeframe to incorporate the South Beach Neighborhood Plan, which was developed in 2005. At that time there was extensive economic analyses done by consultants. One recommendation that Tokos drew the Commissioners' attention to was Policy 3, which talks about the industrial zone being amended to allow only industrial uses. The study said that when we allow commercial in industrial zones, the commercial will out compete the industrial. The City is advised to create an all-industrial zone; and none of the proposals have that. Tokos said that while Bartoldus' proposal is doable, we don't quite get here; and at some point we will have to think about getting to where this policy is going. In order to do that, Tokos said that he wouldn't loosen up the I-3 zone more than

what is drafted. So if the Commission goes with Bartoldus' proposal, Tokos would advise the Commission to make a motion that you want to create an industrially-oriented retail subcategory but also say that general retail is prohibited and bulk retail is either conditional or prohibited. That would give the Planning Commission the ability to review case by case whether the retail proposed is appropriate. Tokos said that is one approach to take (create an industrially-oriented retail subcategory and make it permitted outright in I-3. General retail would be prohibited, and bulk retail would either be conditional or prohibited.) Another approach is to have exclusive industrial in I-3 consistent with the policy of the Comprehensive Plan and, to address Bartoldus' concern, make a motion to do a map change to make the I-3 property I-2. The advantage of this is that we would have an almost exclusive I-3 for properties we bring into the City. Tokos said he just threw these two options out there for the Commissioners to think about. Tokos said that we are talking about three pieces of I-3 property. He did talk to Paul Lawson today, but Lawson wasn't able to make it to the meeting. Lawson said that he found the I-2 changes to be generally acceptable, but he may weigh in at the City Council level. At this point he thought it seemed reasonable and much more acceptable than it was prior. He has one small piece of I-3, which is basically a gravel pit. Most of his property has the I-2 designation. Lawson doesn't care if I-3 is exclusively industrial as long as he has options for who he finds for the property to change the boundaries of the I-3 based on the proposal. Tokos said that moving the boundary probably wouldn't be that difficult. The other I-3 areas are the GVR site and the Hall property under lease to the Port for their dredge spoil area by the LNG plant. Tokos said that is the extent of I-3. Small wondered if we pursue an exclusive I-3 and offer remapping of the Tryon property, is that going to open up additional problems with other properties. Tokos said the only one potentially would be the Hall property because they haven't weighed in on this. He said a motion could be structured that we would offer I-2 to the Halls as well if that was an issue for them. Tokos said that the analysis done in 2005 established that we have a deficiency of industrial land. We have to bring more into it. What this does is provide that if we have that zone, we can apply that zone. If it comes into the City, it has to come into the I-3. He said that Bartoldus' proposal of an industrially-oriented subcategory would be the easiest route. Small asked if that wasn't moving in the opposite direction of this policy. Tokos agreed that doesn't give an exclusive industrial zone. It would provide a subcategory where industrially-oriented retail is permitted outright, maybe general retail is just prohibited, and bulk retail is either prohibited or conditional. It limits the amount of retail allowed in I-3. Bartoldus' proposal is more of a triage of what we have now. Patrick said he is having a hard time thinking of what heavy industrial we would have other than the concrete plant or the asphalt plant. Tokos said it is hard to say what is on the horizon. He is not saying that is the best way to go, but the advantage would be that we would have an exclusive industrial zone to apply to property if we had a heavy industrial use. He sees South Beach having more light industrial type uses and marine types, but there may be a need for heavier industrial uses. Now there are things like the maraschino cherry operation. He wouldn't say there is a mass drive for heavy industrial uses in Newport. Fisher asked if the package maintains the I-2 and I-3, and Tokos said more or less. He said the matrix lists the differences. Fisher said then if somebody chose, they could request a review as an alternative to us setting up a subcategory as we were talking about. Tokos said that the subcategory proposal Bartoldus is offering is addressing their concerns that as I-3 is currently presented they think it's too restrictive on the retail side. Fisher asked if this isn't what we always had. Tokos said it has changed somewhat. Right now in the I-3 building materials, hardware, garden supply, and mobile home dealers are allowed outright, but under the proposal would be conditional. Department stores, general merchandise stores, gas stations, which are currently allowed outright, are conditional. Food stores, apparel, furniture, restaurants, lodging, personal services are prohibited in I-3. Tokos said what Bartoldus is proposing is that building supply, garden supply, hardware should be allowed outright. He said the Commission could do that by motion tonight and move this forward with a recommendation that a subcategory be allowed and whatever other changes you think are appropriate. Fisher said he was torn between which way to go. Croteau thought that we would not lose much in I-3 if we permit this as a subcategory. His inclination is to go with a subcategory in I-3. Patrick said that even though that gives something he wants, he is not sure that is the best approach.

**Testimony:** Dennis Bartoldus, PO Box 1510, Newport. Bartoldus said that this is kind of picking up where he left off on his testimony before. He said that the ideal change would be to allow bulk sales from conditional to permitted outright in I-3. He gave his analysis of this. He did look at the zoning maps to see where the other I-3 properties are located. He is somewhat familiar with both of those. He noted that the Port lease ends shortly. The City has those three areas (5 acres up north, 40 acres of Port property, and 15 acres of the Tryon property.) Their property essentially has a lake in the middle that divides the property and prevents it from being full acres hard ground; and there is a permitting process to do anything with that. He said there isn't really that much I-3 land. He said the kind of industry we are seeking will determine what needs to go into industrial. He questioned what industry Newport is looking for in the long term. He doesn't think it will probably be heavy industrial. He said Newport needs I-3 for things like concrete or asphalt plants. Bartoldus said one of the worst-kept secrets in Newport is when Lowes or Home Depot come through and look at every piece of commercial property close to Highway 101. He said they are probably not going to want to locate on the Terminal property because of visibility and transportation issues. They probably wouldn't locate on Lawson's 5-acre parcel, because their minimum is probably 10 acres. They are looking for something other than those. It could be commercially zoned as well. He said that one of the things the Tryon family has in mind is for this property to be a backup for their concrete plant if they have to move. Or, if they sold, it gives a place to operate the plant if they have to have that. Bartoldus said that his goal is to keep flexibility here. He noted that anything in South Beach will need a conditional use to satisfy the Transportation System Plan, so they are already going through ODOT. They have a bunch of hurdles and what if there is another situation where they have to get a conditional use for the land use. He questioned what kind of business we want to allow and what kind of land do we want to give them. Bartoldus said to the north of the Tryon property is the PUD property, which he thinks is zoned I-1, and further south is an island of I-3. Tokos said that anything else we have is light industrial, and that would be suitable for retail uses. Bartoldus said that granted they are at least conditional uses, but part of the issue here is they were hoping to maintain flexibility and keep the options on the Tryon's property open and address the

issue of what really is the I-3 property going to be used for in the long term. Their main question is what we will really see as heavy industrial. He doesn't think it will be the same as Portland or manufacturing sites throughout the US. They are seeking flexibility so when businesses are looking to relocate, the City has options to try to accommodate them. He said the bottom line is what options we want to provide if we have a business like this interested in moving into the community. His letter indicated what his client's concerns are. One way to deal with it might be to rezone to I-2 on the lower portion. If it's changed to I-2, that changes the amount of I-3 available. For them, combining I-2 and I-3 wasn't a problem. After that was gone, they had to see what they wanted to do.

Chair Patrick closed the hearing at 7:30 p.m. for Commission deliberation. East said that he would like to see the most flexibility for right now. We have I-3 for heavy industrial, but we don't know exactly what will come in so let's not completely block out his option. Patrick said that his own position is that he would like to do that, but he would argue the other side. Conditional use permits give the citizens an opportunity to come through and make their concerns know, and he hates to see that cut off. That is his major objection. He said the subcategory is a way to do it, but that may be going down the same road we just tried to solve; pieces of uses that didn't make any sense like there were in C-2. He would like to pick a rationale and stick with it. Patrick said, however, that if a motion is made the other way, he is likely to vote for it. Fisher said he feels like Patrick in some ways; like he wants to see I-2 and I-3 kept clearly delineated. Tokos interjected that if the policy position the Commission wants to take is that this is simply to streamline and try to simplify and not a broader policy package at this point that is pretty much what path we have been on all the way through. He noted that when we were grouping these, the Commission said to try to err on the more permissive side. That is the direction the Commission took. Then the approach the Commission could take with Bartoldus' suggestion to create an industrially-oriented retail subcategory permitted outright in I-3 and then have general retail go from conditional to prohibited, and keep bulk retail as conditional. He said that is pretty much how it is currently structured. Patrick asked what bulk retail is, and Tokos explained that they are large consumer products, vehicle sales, furniture stores, and appliance stores. When asked where Costco would fit, he said it would be more general merchandise but the Commissioners could put it in bulk retail. Fisher said that I-3 could be heavy industrial, and we could make the decision that Newport won't have heavy industrial except down along the river. Patrick added or where the City adds property near the airport. He thinks they tend to be near the airport because they have noise issues. Croteau said that he doesn't think we lose I-3 by allowing this category. He said it opens another option that might fit, and it gives more flexibility in that regard. We haven't lost the ability to bring heavy industry; we increased the possibility of something more likely to happen in Newport's future. He said this is not the heavy industry location. He asked why not give ourselves flexibility that could help the local economy. It doesn't preclude the future at all. Bartoldus interjected that he thinks his clients would rather have code remain as it is already with sales and bulk retail considered conditional if the Commission says that one can't happen. New general retail would still be possible conditionally. Tokos said that just keeping those uses conditional gives the Planning Commission the ability to see if it is compatible with the character of the neighborhood; it doesn't mean they can't do it. Small said that if you are talking about flexibility, he thinks we achieve that with leaving that as it is with those two categories as conditional. General and bulk retail are still a possibility with that being a decision of the Planning Commission. It is more restrictive, but it doesn't eliminate them all together. Tokos noted that it does allow some uses as conditional that are currently prohibited. Patrick said that if we keep what we have, you can always make a case. One of the things on the Commission's plate is to go back and look at the mix of commercial and industrial lands anyway. He said it's probably just best leaving it as wide open as we can as conditional and we will make that call as we go. East asked if we have more land to consider converting to heavy industrial. Tokos said we have additional in the UGB to the south that could be brought in. It depends on our ability to extend water and sewer to the south, which we are currently working on.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner East, to approve File No. 5-Z-10 with the proposed ordinance as presented in the current packet the Commissioners received tonight and forward it to the City Council. The motion carried unanimously in a voice vote.

2. File No. 3-Z-11. Consideration of legislative text amendments proposed by the City of Newport to the Newport Municipal Code (NMC) that codify street naming and addressing provisions contained in Ordinance No. 665, as amended, and establish criteria and procedures for the renaming of public streets and places. The Commission will forward a recommendation on this matter to the City Council.

Patrick opened the hearing for File No. 3-Z-11 at 7:40 p.m. by reading the summary of the file from the agenda. He asked for the staff report. Tokos noted that the Commissioners have in their packets an ordinance that codifies Ordinance No. 665 that the City has had on the books since the mid 60s, which explains how the City does street naming and addressing and puts in place criteria for dealing with street renaming (something the Planning Commission and City Council both wanted to be in place following the recent request and challenges they faced not having anything on the books.) The ordinance also contains a section on renaming public places other than streets. Tokos said the Commission looked at this and considered it at a work session and had some recommendations for adjustments. Those are mainly toward the end where it dealt with placement of numbers on properties. The Commission didn't have the benefit of seeing language on renaming public places because it wasn't in the draft at work session. The Commission did provide direction on that, however. He said that hopefully this fits the Planning Commission's objective of what that should look like. He said it is pretty straight forward. Fisher noted a typographical error in Section 2.35.020 (C) where the second "than" should be "then". Small wondered if there should be a definition of public places included. Tokos thought it was better to leave it somewhat general. The Commissioners held brief discussion about renaming

various public places. Tokos said there is a general scope from the municipal code as compared to state statute. Patrick said he thinks it is the City dealing with public structures, and Small said he was fine with that.

There was no one present wishing to testify, so Chair Patrick closed the hearing at 8:45 p.m. for Commission deliberation. East said that he liked it. He thought it looked good and covered all points discussed at the work session. He thought it should be sent on to the City Council. Fisher concurred. Croteau said it provides guidance where we had none before. He thinks it is useful. Small was in agreement. Patrick said it does the job it needs to do. Fisher thought that the author of this document should offer a motion.

**MOTION** was made by Commissioner Small, seconded by Commissioner Croteau, to approve the ordinance for File No. 3-Z-11 and forward it to the City Council. The motion carried unanimously in a voice vote. For the record, Small wanted to note that Commissioner Fisher was the real word smith on this document.

**E. Unfinished Business.** No unfinished business to discuss.

**F. New Business.** No new business to discuss.

**G. Director's Comments.**

1. Tokos noted that the Commission had just spent a fair amount of time talking about the Economic Section of the Comprehensive Plan. He said that there is a grant window of August 15<sup>th</sup> and early September for Technical Assistance Grants from the State. One of those is to submit for funds to do economic opportunities analysis to update the economic figures in the Comprehensive Plan. He hasn't put together a clear concept yet. The Mayor is working with the Chamber to pull together an economic development team. Any grant request we submit should be fairly aligned with what our objectives are going to be. Tokos wanted to give the Commission a heads up that we will be applying, which will lead to a planning process that will be before the Planning Commission that will involve additional work on this section of our Comprehensive Plan.

2. Tokos brought up the Territorial Sea Planning process for which the Commission had held a joint meeting with the County. He noted that the City had submitted a letter that we want to be engaged in the process. The State is trying to work with local governments. We still want to work with other partners in Lincoln County and other partners. There will be a conference call later this week. The State is looking to get some work started on aesthetics for structures within the view shed. That conversation is picking up momentum.

3. Tokos said that from time to time the Commission has talked about parking districts. The Bay Front is the last one to form. Their second and maybe last hearing is scheduled for September 6<sup>th</sup> with the City Council. If that passes, all three areas will have districts in place, which means that payment in-lieu-of parking doesn't apply. Tokos noted that the current draft of the proposal for Bay Front has a clause which none of the others have. We will provide the district with any conditional use application and if the committee weighs in on it, the Planning Commission and the City Council will consider their testimony as expert in regard to parking issues. Those appointed to the advisory committee should have a pretty significant say on conditional use applications, particularly those that would generate a lot of vehicles on the Bay Front. Fisher said that he had heard that one group came with 50 signed petitions that a district not be put in place. Tokos said that is not quite how it worked out. We received petitions from several fishermen saying they weren't happy that they weren't engaged. An ad hoc group was put together to work through the difficulties between the fishermen and the tourism businesses. The Port is now engaged and will be making a contribution on behalf of the fishermen. They will have the opportunity to say more as a result. These issues have been worked through, and Tokos thinks everybody is happy. Because of that different language than for other districts, if the Commission sees a letter in the packet from the Bay Front Parking District Committee with testimony that is where Tokos would advise them to take that as expert testimony. Fisher said that he also heard that there is a million dollars of room tax to be used. He wondered if it wouldn't be a good thing to take that money and buy land for parking lots that tourists could use. He added that a couple of Councilors said the City can't use it for parking lots. Tokos said that is testimony Fisher might want to take to the City Council. His thought was similar to Fisher's. The money is designated for tourist activities. The City Council is setting up a process to make requests for those funds. Tokos said that Fisher should pose that question directly to the Councilors. Patrick asked if the fishermen have input on that committee. Tokos said the framework is that they are looking to collect a certain amount of funds and say this is the scope those funds can be extended toward. The City Council appoints the committee members. To try to keep it relatively balanced, the numbers will be equal with fishermen and tourism businesses. It was set up that way intentionally. Patrick thinks there may be gridlock. Tokos said that with the ad hoc group, they have been able to work out some issues and there is fairly even representation now. Small said that he shared Patrick's concern. He recalled a conditional use permit application for Ocean Bleu Seafood and a competing business was an opponent of that. He wonders if this gives them an avenue to block a competing retail business. He wondered if there was the potential for that kind of thing. Tokos said that he didn't think that was likely. If this gets adopted, the advisory committee wouldn't necessarily weigh in on everything anyway. It would have to be the majority of the committee, which is fairly evenly represented. They can bring a perspective you are not aware of. They can bring meaningful feedback. It's not likely we will have a situation of an individual business versus an individual business.

4. Tokos reminded the Commissioners of the ribbon cutting for NOAA on August 20<sup>th</sup>, which will also include Marine Science Drive improvements.

5. Tokos wanted to update the Commissioners on the TSP process. There will be a conference call later in the week. ODOT is looking for conversation from us that the trip budget concept is something we want to have them put together. There was no feedback that was problematic from the last open house. Generally people think that was a reasonable way to go. We will be giving them direction to put code language together so the Planning Commission can look at it.

**H. Adjournment.** There being no further business to come before the Planning Commission, the meeting adjourned at 8:00 p.m.

Respectfully submitted,



---

Wanda Haney  
Executive Assistant