

MINUTES
City of Newport
Planning Commission Work Session
City Hall Conference Room "A"
Monday, December 14, 2009

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

Commissioners Absent: Gary East.

Citizens Advisory Committee Members Present: Bill Wells, Lisa Mulcahy, and Dustin Capri.

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

Chair Patrick called the Planning Commission work session to order at 6:00 p.m. and turned the proceedings over to CDD Tokos.

A. Unfinished Business.

1. Comprehensive Zoning Code Update.

a. Continued discussion about the direction the City should take in updating the Geologic Hazards section of the Zoning Ordinance. On the overhead, Tokos displayed Dogami maps. He noted that in late October the Planning Commission held a work session regarding geologic hazards and had Dogami and DLCDC presentations at the last meeting. Tokos had put together a memo with a series of questions to get information in order to get a sense of what he should be doing to prepare draft amendments. He showed the Dogami '77 maps that we are currently using. For their 2004 maps, Dogami had better data and used a different methodology. The methodology used in the '04 maps will be the same as with LIDAR in the next few years. Showing maps of South Beach, Tokos explained that the blue represents lands identified by Dogami or private agencies as having potential stability issues. The next map showed the actual bluff erosion area. He explained that light red is the active hazard area, darker red is high, orange is medium, and yellow is low. Next was the dune hazards that tie to statewide planning goal 18, which Newport included in their Comp plan; and we are supposed to be eliminating development in those areas. For discussion purposes, Tokos read through the questions in his memo. The first question was whether the Commission was interested in using the 2004 maps as a trigger for when evaluation is needed. Patrick felt that we need to use what information Dogami has. As they update data, we can change maps at that time. We need to use the best information we have now and set it up so that we can change the reference later on. Tokos noted that the low, medium, and high mapping won't change; just the boundaries. We have the 2004 data. Rehfuss thought that maybe we should wait for LIDAR before updating. Patrick said that knowing how slowly things proceed, he thought we need to start now because it will take a while. Tokos said that one thing included in planning goal 7 is the requirement that local jurisdictions consider new data when it comes out and decide whether to add to inventory. Tokos noted that in the subdivision code, anything over 12% requires a study and asked if something should be adopted for pre-existing lots. The code would not apply to existing development. For additions or substantial modifications, the new code would apply. Patrick wondered if 12% was a good trigger for requiring reports. Tokos said that is what is in the subdivision code, but we could look at others. He said that Multnomah County uses 25%. Tokos said that with subdivisions, it's not as much of an issue because they are on larger lots. Patrick felt that for individual lots and parcels, he would like a better number. Capri thought that 25% is reasonable, but that we don't want to go beyond 25. The next question Tokos had was whether to prohibit certain uses in high or active zones. He said that the model code shows how they tackle that. Tokos said that in high, we couldn't do much more than repeal development. Some additions may be allowed in moderate areas; and pretty much anything is fine in low. Tokos said that looking at the Dogami hazard illustration, there is a pretty good chance that there will be failure in the active hazard areas. A failure could be the responsibility of the owner, but somebody has to take care of it, especially if it involves health and safety. Tokos asked the Commissioners if they wanted to go down this path, and if so, what their thoughts were. Tokos added that under the dunes, we have an obligation. Our Comp Plan says we are to be prohibiting any structures in dune hazard areas. He said that we need to clean that up because we are charged with regulating for hazards. Patrick thought we will have to take a run at it as much as he doesn't want to. Rehfuss, Sarazin, and Fisher agreed. Wells questioned how much government intervention we want but also how much responsibility do we have for what people can or can't do. He suggested that information be relatively available through real estate agents, and he said that perhaps the state needs to step in. Patrick wondered if it were possible to include some language that if someone wants to build in an active zone, they are required to put up some money for cleanup if it fails. Newman agreed with the other Commissioners. She said she is totally aware that it is buyer beware, but if there is a lot between two existing houses, a buyer is normally going to think that it's okay. Patrick believes that if regulation applies to the dunes, it

should also apply to the bluff. Tokos said that he's thinking that in high hazard areas, we should allow people to maintain, but not allow development. They maybe could do some small changes. Right now if their property is shown on the 1977 maps, they do a geologic report and follow those recommendations. Nothing prohibits uses, it just says they have to do a report. Small said that he would like to see language regulating that development. Mulcahy agreed that it needs to be done. Capri thought it made sense. Fisher said that if we prohibit development in some areas, we have to do a clear-reading overlay so that there is no question of where they can't build. Otherwise, we have to say that if they can bring it up to specs, it's okay. He said that it needs to be very clear. Sarazin asked if the City is required to notify those people in those areas. Tokos said they would be getting a notice that has very strong language saying that development is prohibited in active areas. They will be able to maintain their existing houses, but there will be no significant new development in active hazard areas. Tokos said that he is working in the possibility of allowing a geo tech reconnaissance rather than a full-blown study in the moderate or low zones. This is included in Multnomah County's example. That would be a cost-savings to folks. They pay less for reconnaissance than for a full study. The response from the Commissioners was generally in favor of allowing this. The fourth question was whether the Commissioners want erosion control standard built in. If this is adopted, we would need to make sure they are being implemented. Patrick said that according to state standards, if more than one acre is disturbed, the state requires erosion control. Tokos said that it's obvious that the matrix would have to be very clear. There will be handouts for folks so that they know where they can get these materials. The idea is to keep sediment off city property, streets, and neighboring properties. If it's not working, then we can come up with something else. Typically they put on their plans what they are doing. It is something that is in place before the earthwork begins and stays in place until it is stabilized. Fisher wondered if the state had an example. He would like to see something that is easily workable. The last question Tokos asked the Commissioners was whether they wanted criteria for reducing density due to geologic hazards. The code currently has language. It gives the authority to reduce density, but it doesn't say what we should be considering. Patrick said that he hasn't seen applicants in geologic hazard areas asking for the density the property could have; they all are less than it could be. Most have come in low. Tokos said that we could just rely on the geotechnical study and see what it says. If it says what they are proposing is safe, then they can do it. Patrick agreed that we should just rely on the geo report to say what the density should be. Tokos said that the discussion had given him enough answers to put draft language together for the Commission to consider at a later meeting.

b. Initial discussion about changes to accessory use regulations. Tokos had prepared a brief memo on this subject and provided a handout prior to the meeting. Most jurisdictions require an accessory structure to be on the same lot, but that is not where Newport is at right now. Our code allows building over the interior lot lines. A lot is defined as your building area. Patrick recalled that we had talked about deed restrictions. Tokos said that the three approaches to this section are that we could leave this section alone, have deed restrictions, or move forward by eliminating interior lines and having one lot. He said that deed restrictions are a little more cumbersome for tracking, but less expensive to property owners. If the interior line is eliminated, we would be taking away a lot. We can set up a process to eliminate the interior line. For most, it would be a partition in the future if they wanted the line back. Fisher thought that maybe we don't have to mess with this section, but Patrick thought that it's really not workable. Tokos agreed that accessory structure is an issue in the code now. He said that people could do a lot line adjustment or adjust it by eliminating the interior line. Most jurisdictions don't allow accessory structures on separate lots. There often will end up being an operating business out of that building. If it is on the same lot, it is understood as being accessory to the home. If it's on its own lot, and that is conveyed, then it becomes more attractive to use it separately. Fisher said that the deed restriction route seems more functional, but it may be harder for the city to track over time. For clarification, Sarazin asked if the center line were eliminated, could a person put it back if they chose. Tokos stated that in many cases that wouldn't be a problem if they could meet the minimum lot size. Patrick also thought that the deed restriction is clearer for the property owner. This probably should require at least a staff level review and maybe could be required to be recorded just prior to pulling permits. Rehffuss agreed with the deed restriction. Tokos asked if the Commissioners wanted to try to list accessory structures or not. His preference is not to. He said that if the words incidental and subordinate are in the code, it should be fine. We could require an accessory structure covenant so that a future buyer knows that it is not another dwelling. Tokos summed up what he was hearing from the Commissioners: no list, keep it simple, and go with something like a deed restriction.

B. Adjournment. Having no further time, the meeting adjourned at 7:05 p.m.

Respectfully submitted,

Wanda Haney
Senior Administrative Assistant