



CITY OF NEHALEM

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NEHALEM PLANNING COMMISSION MEETING THURSDAY December 19, 2019 - 6:00 p.m.

**CALL TO ORDER:
PLEDGE OF ALLEGIANCE
ROLL CALL:
GUESTS:**

APPROVAL OF MINUTES: October 17, 2019 Planning Commission Minutes

Open Public Hearing on Ordinance 2019-04

OLD BUSINESS:

1. None

NEW BUSINESS:

1. Ordinance 2019-04, which removes the stipulation that ADU's must have off street parking and that either the primary residence or the ADU must be owner occupied. Adds that ADU's are prohibited from being used as short term rentals.

LCDC Lobbied the State legislature to prohibit cities from requiring ADU's to have off street parking and from requiring one of the residences from being owner occupied. It is up to each city if they want to allow ADU's as short term rentals. Cities must bring their ordinance into compliance with the new law by January 2020.

**ANY OTHER BUSINESS
PUBLIC COMMENTS**

ADJOURNMENT

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. Please contact City Hall at 503-368-5627 to make a request for an interpreter or other accommodations for persons with disabilities.

**NEHALEM PLANNING COMMISSION
PLANNING MINUTES
REGULAR MEETING
OCTOBER 17, 2019**

Vice-Chair Lease called the Planning Commission Meeting to order at 6:00 p.m.

**PLANNING COMMISSION
MEMBERS PRESENT:**

Janet Lease, Vice-Chair
Lance Stockton, Commissioner
Mary Jo Anderson, Commissioner
Julie Chick, Commissioner

STAFF PRESENT:

Dale Shafer, City Manager
Melissa Thompson-Kiefer, Asst. City Mgr./Recorder
Don Davidson, Public Works Director
Brian Moore, Maintenance Specialist II
John Morgan, City Planner

VISITORS:

Lisa Phipps, DLCD
Cynthia Alamillo, Manzanita City Manager
Mary Lynn Morgan
Debbie Moberly
Frank Squillo
Lane deMoll
Barbara McLaughlin

Vice-Chair Lease led those present in the Pledge of Allegiance.

MINUTES

The Commission reviewed the minutes of the August 21, 2019 Planning Commission meeting. Commissioner Anderson **MOVED** to approve the minutes from the August 21, 2019 meeting as presented. Commissioner Stockton **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Chick, Stockton, and Anderson; No: None).**

OLD BUSINESS

PUBLIC HEARING: Recommendation of the Nehalem Comprehensive Plan to the Nehalem City Council.

At 6:04 p.m., Vice-Chair Lease opened the public hearing.

City Planner John Morgan presented the staff report, reviewing some of the requirements of a Comprehensive Plan and explaining that the role of the Commission was to hold a formal public hearing on the proposed Plan and make a recommendation on adopting the Comprehensive Plan to the City Council. The staff report concluded that the proposed Comprehensive Plan update meets the standards necessary for approval.

There was discussion recalling the Planning Commission's two-year process of updating the Comprehensive Plan, including the community visioning process.

Lisa Phipps noted that the City may receive some comments on the Plan from the Department of Land Conservation and Development (DLCD) before the City Council hearing.

Vice-Chair Lease confirmed for the public that there would be additional opportunity for public comment at the City Council's public hearing of the Comprehensive Plan.

Assistant City Manager/Recorder Thompson-Kiefer and Mr. Morgan recommended several edits and corrections to be made before the Comprehensive Plan before goes to the Council, including the addition of maps. Ms. Phipps added that references to attending studies that develop the goals will also be included. Mr. Morgan said the adopting Ordinance will reference all of the materials (such as the Transportation Plan) used to develop the previous and updated Comprehensive Plan.

There being no further public comments or changes, Vice-Chair Lease closed the public hearing on the draft Comprehensive Plan at 6:18 p.m.

Commissioner Anderson **MOVED** that the Planning Commission approve the draft Comprehensive Plan as amended this evening and recommend its adoption to the City Council of Nehalem. Commissioner Chick **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Chick, Stockton, and Anderson; No: None).**

NEW BUSINESS

PUBLIC HEARING: Code Enforcement Hearing Regarding a Violation of the City of Nehalem Zoning Ordinance in Multiple Particulars Relating to the Unapproved and Unpermitted Parking Arrangement Used for Wanda's Café. The subject property is located at 12880 H Street, Nehalem, Oregon, also known as map and tax lot 3N1027-BD-2900. The property is in the Commercial zone. The owners are Frank Squillo & Patrick Conner.

At 6: 19 p.m., Vice-Chair Lease opened the public hearing.

Vice-Chair Lease noted that all Commissioners frequently drive by the subject property. There was no ex-parte communication or personal bias to declare and were no objections to the ability of a Commissioner to make a fair decision.

Vice-Chair Lease described the hearing process and performed the required statements for the hearing.

Vice-Chair Lease read aloud the staff report on behalf of City Manager Shafer. The report detailed the multiple aspects of the parking that are in violation of the City's ordinances and described that actions the Planning Commission could take in response. There was brief discussion clarifying violations that were depicted in the photos included in the City Manager's report.

Frank Squillo apologized to City Manager Shafer for his actions on a phone call regarding the parking violations. Mr. Squillo said he supported what the Commission wanted to do regarding the parking situation. He noted that the previous owner said there was never any previous contact from the City regarding parking. City Manager Shafer confirmed for Mr. Squillo that the Ordinances were in place before he purchased the property. Mr. Squillo shared that their striping was an attempt to bring order to the parking situation and explained their process. He shared interactions with customers who parked illegally. Mr. Squillo presented the Commission with a Proposal to Perform Architectural Services and explained that he had engaged the architect to design a new parking plan. He briefly described the potential new design. He said they would abide by whatever the City wanted him to do and wanted to be good neighbors.

There was brief discussion regarding drivers making U-turns in the Post Office parking lot. There was discussion regarding the possibility of the City installing a public parking sign on Highway 101. Public Works Director Davidson expressed concern about the concrete blocks that were installed on 9th Street and asked Mr. Squillo to ensure that there was adequate maneuvering space in the new parallel spots. A Commissioner recommended leaving the 3 existing head-in parking spots on 9th Street as is. City Manager Shafer recommended assessing fines and suspending them to allow abatement.

There was public comment applauding the reasonable agreement, and public comment expressing appreciation that Mr. Squillo was addressing the parking problem.

Mr. Squillo inquired about converting a nearby property into a parking lot. Mr. Morgan noted that a zone change would be required.

There being no further public comments, Vice-Chair Lease closed the public hearing at 6:50 p.m.

After discussion regarding the deadline for abatement and new parking plan approval process, Commissioner Chick **MOVED** to assess a fine of \$500 per day, beginning on the date notice was given, with the fines suspended until November 15, 2019 to allow the owners to take abatement

steps. Written plans including replacing the angled parking on 9th Street with parallel parking and redesigning the parking lot must be submitted to the City Manager for approval prior to the deadline. If the violations are fully abated, fines will not be assessed. Commissioner Anderson **SECONDED** the motion. **MOTION APPROVED 3-0 (Yes: Chick, Stockton, and Anderson; No: None).**

DISCUSSION OF NOT ALLOWING ACCESSORY DWELLING UNITS (ADUs) AS SHORT-TERM RENTALS

City Manager Shafer said there was public comment at the City Council meeting that ADUs should not be allowed to be used as short-term rentals. Mr. Morgan explained that it would be an amendment to the development code that requires notice. There was discussion regarding ADUs within city limits. City Manager Shafer said existing ADUs were grandfathered in. There was public comment suggesting limiting discussion to the Urban Growth Boundary. The Commission agreed to hold a hearing considering prohibiting the use of ADUs as short-term rentals within the Urban Growth Boundary. City Manager Shafer and Mr. Morgan explained that they will draft language that would prohibit ADUs to be used as short-term rentals. Testimony will be heard from those in favor and opposed, and the Commission can discuss the details. The Commission will make a recommendation to the Council, and the Council will hold a second public hearing. There was further discussion about short-term rentals. Ms. Phipps explained recent state legislation that allows restrictions on owner-occupation and off-street parking for ADUs only if they are being used as a short-term rental.

PUBLIC COMMENTS

There was public comment that there should be a cap on short-term rentals. Manzanita City Manager Cynthia Alamillo clarified that the cap in Manzanita is 17.5%.

ADJOURNMENT

The next Planning Commission meetings were tentatively scheduled for November 14, 2019 and December 19, 2019.

There being no further business, Vice-Chair Lease adjourned the meeting at 7:18 p.m.

APPROVED: _____
Janet Lease, Planning Commission Vice-Chair

ATTEST: _____
Melissa Thompson-Kiefer, Assistant City Manager/Recorder

Staff Report

DATE: December 17, 2019

TO: City of Nehalem Planning Commission

FROM: John Morgan, City Planner

SUBJECT: Revisions to ADU section of the Development Code

The City Council, at the recommendation of the Planning Commission, adopted an amendment to the Development Code in September which authorized the development and use of accessory dwelling units (ADU) in the residential zones outside the City Limits but inside the Urban Growth Boundary. This was in accordance with the requirements of Oregon Senate Bill 1051 passed by the Legislature in the 2017 session.

Subsequently, the Legislature passed HB 2001 in the 2019 session which established that ADU zoning standards cannot require additional off-street parking spaces for an ADU and cannot require owner occupancy of one of the two dwellings on a property. Both of these provisions are in the Nehalem code amendment adopted in September and legally must be removed.

Also, residents testified before both the Planning Commission and City Council on the issue of not allowing ADU's to be used as short term rentals. The Council generally concurred with this position and referred it back to the Planning Commission for consideration.

A draft ordinance is attached to this report for the Planning Commission's consideration. It removes the parking and owner-occupancy requirements and specifies that ADU's cannot be used for short-term rentals.

The Planning Commission's role is to make a recommendation on the proposed ordinance to the City Council.

Tonight, the Planning Commission will hold a hearing on the proposed ordinance. After the close of the hearing, the Planning Commission will deliberate on the proposed ordinance and vote on a recommendation to the City Council.

Staff recommends the following motion:

I move the Planning Commission recommends the City Council adopt the proposed ordinance as drafted.



ORDINANCE 2019-04

AN ORDINANCE AMENDING CITY OF NEHALEM ZONING ORDINANCE 80-02 TO INCLUDE CERTAIN CHANGES REQUIRED BY SB1051, ADOPTING RULES AND REGULATIONS TO ALLOW ACCESSORY DWELLING UNITS OUTSIDE THE NEHALEM CITY LIMITS, BUT INSIDE THE NEHALEM URBAN GROWTH BOUNDARY.

WHEREAS the Oregon State Legislature has passed Senate Bill 1051 which requires that cities in Oregon Counties with a population of over 15,000 are required to allow Accessory Dwelling Units inside their Urban Growth Boundary; and

WHEREAS Senate Bill 1051 exempts cities with a population of less than 2500 from having to allow Accessory Dwelling Units inside their city limits; and

WHEREAS Senate Bill 1051 allows cities to pass rules and regulations regarding the siting of Accessory Dwelling Units within their city limits and their Urban Growth Boundaries;

WHEREAS HOUSE Bill 2001 places additional restrictions on the rules and regulations that cities are allowed to impose for the siting of Accessory Dwelling Units;

NOW, THEREFORE, the City Council of the City of Nehalem does ordain as follows:

SECTION 14.160 ACCESSORY DWELLING UNITS: Amend as follows.

Where permitted, an accessory dwelling unit may be sited on a lot with an existing or under-construction single-family home, shall conform to all building code requirements, and shall meet the following use and development standards.

1. Location. The accessory dwelling unit, if free standing, shall be located within the side or rear yard and physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.
2. Number. Only one accessory dwelling unit shall be permitted per lot or parcel.
3. Design. All accessory dwelling units shall be set on a continuous concrete foundation; have any wheels, tongues and running gear removed; and be connected to domestic sewer and water. A separate address may be required for the residence.
4. Area. The floor area of a detached accessory dwelling unit or an addition to an existing residence to add an accessory dwelling unit shall not exceed 100% of the floor

area of the primary residence or 800 square feet, whichever is less. An accessory dwelling unit created by a remodel of an existing residence may not occupy more than one floor of the residence regardless of size.

5. Setbacks. For a Detached Accessory Dwelling Unit, the minimum rear yard setback shall be 10 feet; the minimum side yard setback shall be 5 feet.
6. Height. The maximum height of a freestanding accessory dwelling unit shall be 25 feet but in no case shall the height exceed the height of the primary residence. Accessory dwelling units built within or as additions to the primary dwelling unit, or over detached garages, shall not exceed the maximum height of the zone.
7. ~~Owner Occupied. Either the primary dwelling unit or the accessory dwelling unit must be owner occupied.~~
8. Lot Coverage. The impervious surface associated with the accessory dwelling unit, including the unit and driveways, parking, walkways, and patios, is counted toward the maximum lot coverage for the lot.
9. ~~Parking. A minimum of 1 off-street parking space shall be provided for an accessory dwelling unit. The additional space need not be paved but shall remain unobstructed and available for parking.~~
10. Short Term Rentals. Accessory Dwelling Units are prohibited from being used as Short Term Rentals.

PASSED and ADOPTED by the Nehalem City Council this _____ day of _____ 2019 and APPROVED by the Mayor this _____ day of _____, 2019

APPROVED:

ATTEST:

Bill L. Dillard Jr., Mayor

Dale Shafer, City Manager

First Reading: _____

Second Reading: _____

Adoption: _____

Ayes: _____

Nays: _____

Abstentions: _____