

CITY OF ROCKAWAY BEACH

City Planning Commission Meeting



Date: December 18, 2018
Time: 6:00 PM
Location: City Hall, Council Chambers

CALL TO ORDER AND APPROVAL OF AGENDA FOR CITY PLANNING COMMISSION MEETING

ROLL CALL

The meeting was called to order at 6:00 pm in the City Council Chambers by President Janet McIntire. Present were: President McIntire, commissioners Penelope Cheek, Pat Olson, Mary McGinnis, Scott Daugherty and Brian Halvorsen. Also present: Scott Fregonese.

Position #1 - Greg Baumgart: Absent

Position #2 - Janet McIntire: Present

Position #3 - Pat Olson: Present

Position #4 - Mary McGinnis: Present

Position #5 - Scott Daugherty: Present

Position #6 - Brian Halvorsen: Present

Position #7 - Penelope Cheek: Present

Approval of Minutes

Olson made a motion, seconded by Halvorsen, to approve the October 23, 2018, regular Planning Commission meeting minutes: motion carried.

Position #3 - Pat Olson: Motion

Position #6 - Brian Halvorsen: 2nd

Position #1 - Greg Baumgart: Absent

Position #2 - Janet McIntire: Approve

Position #3 - Pat Olson: Approve

Position #4 - Mary McGinnis: Approve

Position #5 - Scott Daugherty: Approve

Position #6 - Brian Halvorsen: Approve

Position #7 - Penelope Cheek: Approve

Revisit Zoning Ordinance Amendments

McIntire mentioned the reason the City was in the process of revisiting the zoning ordinance amendments was to meet State requirements. McIntire gave a brief description on how it works, she mentioned that the Planning Commission was available to make recommendations to the City Council. McIntire said that the City Council would make the final decision regarding what

would be. Fregonese mentioned zoning code updates to improve clarity and ease of use. He said the minor updates were to change PUD procedures so final plan approval was final at the Planning Committee unless appealed. He mentioned removing section 11.040(2)(a) certified return receipt mail. Fregonese mentioned making sure all residential zones on the east side of Highway 101 have a height limit of 29'. He wanted schools to be a conditional use in the R-1 zone. He mentioned there were several definitions being added. He stated the major updates were removing RVs as an outright permitted use in the RMD zone. Fregonese explained there would be no permanent RV inhabitation in RMD zones. He noted new regulations would not affect those currently living in RVs. He pointed out creating food cart regulations. He said food carts were not currently mentioned in the zoning ordinance and would be allowed as an outright use in C-1 zone and conditional use in the R-R zone. He stated another update would be removing residential as an outright use in key areas of commercial zones. He explained this change would allow residential, but only it included a non-residential use in a mixed-use project on some parcels and reduce the amount of parking required for residential in C-1 to 1 space per unit. He noted the adding of accessory dwelling unit (ADU) affecting properties within the R-1, R-2, R-3, R-R, and RMD zones. Fregonese mentioned the amendments required in the Flood Hazard Overlay Zone with the adoption of the new FEMA Flood Insurance Rate Maps. McIntire @ 6:23 p.m. opened the public hearing for the purpose of comments on both zoning changes as well the changes due to the FEMA regulations and floodplain maps. She announced the first public speaker as Teri Butler. Butler stated she and her husband had purchased land on South Easy Street. Butler expressed her concerns regarding removing the use of RVs in the RMD zone. Brian Chipman, 8590 Victoria Avenue, mentioned he was speaking on the behalf of his father Steven Chipman. Chipman said they had owned this property since his grandfather passed away in 2010. He stated they were upset because of quiet enjoyment: a covenant that promised that the grantee or tenant of an estate in real property would be able to possess the premises in peace, without disturbance by hostile claimants. Terry Walhood, 1092 S Easy St. expressed her concern with the proposed changes in the RMD zone. She gave a brief history of the area stating she thinks an area should be preserved to allow people to come down with their RVs. Tony Waibel, 867 SE 58th Avenue, Hillsboro, expressed his concerns with regard to his property. Sarah Curtin, 390 Northslope Way, expressed her concerns with the height increase from 24' to 29' in the R-1 zone, stating she'd bought her property for the view on PVE. Mary Dunn, 402 Longview Loop said she and her neighbors were not in favor of the height restriction increase. McGinnis thanked people for coming and giving their input. McIntire closed the public hearing at 6:51 p.m. McIntire had discussed how the Commissioners would like to vote. Halverson said he would like to remove 3, 4 and discuss number 8.

Olson made a motion, seconded by Cheek, to move in whole the amendments in the zoning ordinance 1,2,5,6,7,9,10 to the City Council for approval; motion carried.

[Position #3 - Pat Olson: Motion](#)

[Position #7 - Penelope Cheek: 2nd](#)

[Position #1 - Greg Baumgart: Absent](#)

[Position #2 - Janet McIntire: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #4 - Mary McGinnis: Approve](#)

[Position #5 - Scott Daugherty: Approve](#)

[Position #6 - Brian Halvorsen: Approve](#)

[Position #7 - Penelope Cheek: Approve](#)

#3 - Discuss the removing of the placement of RVs except for 6 months during construction.

Halvorson said he had come into the Planning Commission tonight to vote yes, but after listening to everyone's concerns he could no longer support that. Fregonese said when he first was looking at this he wanted to know about affordable housing, he said he was concerned they would be taking away affordable housing. He said if you look at ownership, 80 to 85 percent were seconded homes. McIntire stated this wasn't preventing manufactured or mobile homes from being placed. McGinnis asked if, the people currently using their RVs as permanent homes would be grandfathered in so they could continue the use. Fregonese said yes.

Fregonese mentioned the only thing that changes a grandfather is if there is a title transfer. McIntire said she would like to make a comment that she was very sympathetic for the people who had this, who bought their land to create something, she said she was also sympathetic for the other people who spoke at the open house the City had. McIntire stated she had to question about if the RMD Zone was actually residentially zoned and it was for people who really wanted to stay and live there, then why was the City not putting those same opportunities in other residential zones. She said she was looking for fairness across the City. She said if the City needed places for people to come in and out with an RV, her hope would be that the City would look at how to create that capability. She stated she was supporting this because she wanted to begin seeing parity within the City and by all property owners that they had equal rights.

Cheek made a motion, seconded by Daugherty, to move #3 forward to the City Council for adoption: motion carried.

[Position #7 - Penelope Cheek: Motion](#)
[Position #5 - Scott Daugherty: 2nd](#)
[Position #1 - Greg Baumgart: Absent](#)
[Position #2 - Janet McIntire: Approve](#)
[Position #3 - Pat Olson: Approve](#)
[Position #4 - Mary McGinnis: Approve](#)
[Position #5 - Scott Daugherty: Approve](#)
[Position #6 - Brian Halvorsen: Disapprove](#)
[Position #7 - Penelope Cheek: Approve](#)

#4 - Discuss all residential zones on the east side of Highway 101 have a height limit of 29'

McIntire stated that the reason with that is, in the R-3 and RMD zones they have a different height east of the highway which means east of 101. McIntire said this modification would standardize height in the zones across Rockaway Beach. Daugherty mentioned he thought this should be uniform.

Daugherty made a motion, seconded by Halvorsen, to move forward for all residential zones on the east side of Highway to a maximum height limit of 29': motion carried.

[Position #5 - Scott Daugherty: Motion](#)
[Position #6 - Brian Halvorsen: 2nd](#)
[Position #1 - Greg Baumgart: Absent](#)
[Position #2 - Janet McIntire: Approve](#)
[Position #3 - Pat Olson: Approve](#)
[Position #4 - Mary McGinnis: Approve](#)
[Position #5 - Scott Daugherty: Approve](#)
[Position #6 - Brian Halvorsen: Approve](#)

Position #7 - Penelope Cheek: Disapprove

#8 – Discuss allowing accessory dwelling units for permanent residents

Halvorsen said he approved it as it was written, but mentioned he wanted to go back and discuss the 30-day lease verse the 90-day lease. Cheek stated she believed the State law for a lease was only good for one year, she thought only 30-days or 1-year was legal. McIntire stated they didn't want this to be called a short-term rental because that was what people didn't support. McGinnis suggested cleaning stuff up and getting a code enforcer. Fregonese said it was an option to leave it an open question to the Council. McIntire said one thing they wanted to make really clear was when they move this forward to the Council, the Planning Commission doesn't want this to be a vacation rental. Fregonese said he reviewed the development standards and would like to remove the requirements for an ADU to be set back 40 feet and located behind the rear wall of the existing house, attached house, or manufactured home. McIntire said to remove lines A and B from 4.170.040 Development Standards on Fregonese request. McIntire and Fregonese mentioned keeping the first line of 4.170.040 #5 detached accessory dwelling units must meet the development standards for the base zone and remove height is limited to 20 feet, and attached accessory dwelling units had the same height limit as the base zone. McIntire stated clarification of removing # 4 and keep only the first sentence of #5.

Cheek made a motion, seconded by Halvorsen, to move forward # 8 with removal of C4 and the last two sentences of C5 and include a comment to the Council regarding the length of time of the rental; motion carried.

Position #7 - Penelope Cheek: Motion

Position #6 - Brian Halvorsen: 2nd

Position #1 - Greg Baumgart: Absent

Position #2 - Janet McIntire: Approve

Position #3 - Pat Olson: Approve

Position #4 - Mary McGinnis: Approve

Position #5 - Scott Daugherty: Approve

Position #6 - Brian Halvorsen: Approve

Position #7 - Penelope Cheek: Approve

McIntire mentioned a motion to move forward the FEMA regulations. McIntire said if she could entertain a motion to move forward the amendments required in the Flood Hazard Zone Overlay.

Daugherty made a motion, seconded by McGinnis, to move forward the amendments required in the flood hazards overlay with the adoption of the new FEMA Flood Insurance Rate Maps and the proposed zoning ordinance amendments; motion carried.

[Position #5 - Scott Daugherty: Motion](#)

[Position #4 - Mary McGinnis: 2nd](#)

[Position #1 - Greg Baumgart: Absent](#)

[Position #2 - Janet McIntire: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #4 - Mary McGinnis: Approve](#)

[Position #5 - Scott Daugherty: Approve](#)

[Position #6 - Brian Halvorsen: Approve](#)

[Position #7 - Penelope Check: Approve](#)

Update on Resilience Grant Project

Fregonese gave an update on the resilience grant, stating he was drafting plan documents now. He said there would need to be an open house on this as part of the requirement.

He stated they were going to produce the final document that needed to be adopted in April, and it would have the recommendations on how things in the other documents should change based on the tsunami resilience. Fregonese said they were finalizing recommendations now and, there would be code amendments and Comp Plan changes. Fregonese mentioned they had meet with DLCD and DOGAMI in November to discuss their new hazards model. He said they were meeting with the Emergency Preparedness Committee on January 15th 2019, at 1pm to discuss the resilience plan because it would affect the Emergency Preparedness Committee. He said they were going to present the recommendations to the Planning Committee in February and then take those recommendations after the Committee had seen them to the public hearing and then hopefully they would be adopted.

Update on the Salmonberry Trail

McIntire mentioned she had been going to their meetings to listen to what they were doing, and what their goal was because a large portion of their trail came right through Rockaway. McIntire said there were three sections to the trail called the valley, canyon and coast section. She said the coast was the next place to look. She said in February there would be a meeting/ work session looking for a strategic plan and possibly a reorganization of their board. She stated the STIA currently can't except large donations. STIA had applied for grant money through a large foundation and was going to be awarded \$250,000 for this project but was unable to accept the grant due to their current IRS non-profit filing. McIntire mentioned the bike trail which would run from Astoria to the California border, noting the Salmonberry Trail can be interfaced with that. McGinnis stated Chief Stewart was excited about it because he could see it as a safe place for kids to walk to school because it would go through down town all the way past the High School. McIntire said ODOT had safety grant dollars and the City didn't really have a safe crosswalk for the kids at the middle and high schools. She said there was another funding source if part of the trail was located there, it would possibly allow a lighted crosswalk to be placed giving more safety to the kids. She stated that ODOT was really looking at the bike trail now. Daugherty asked where the path from Garibaldi to Wheeler was going to go. McIntire responded that was why they were hoping to have some STIA board members come to meet with City staff, she mentioned there was a plan, but whether or not that plan would work, was why the City wanted them to come and show the City in order to get input from different departments. McIntire said in January they were hoping to get more clarity or at least see what STIA's thoughts were and if the City thought that would work.

Commission Comments and Concerns

Terry Walhood mentioned she was curious about the survey money, she asked how many times a person could go back in and fill out a survey. Fregonese said the City had people's IP address so they could tell how many people had done that, he said there wasn't much. Daugherty said he was curious about the trail. He stated he had a chance briefly to go chase evacuation routes, he felt the City had a real lack of signage on the highway coming from either direction. He stated the City needed to determine where to put a sign that a person was in the clear, because there was nothing that told a person how far to go. Olson mentioned he was happy with what moved forward, and Merry Christmas. McGinnis said she was surprised to see so many people come tonight, she said the City got input and she was happy about that. She mentioned the boardwalk, and just how much she loved it. Halvorsen said he appreciated everyone for showing up, he mentioned people had said they were not notified and he was hoping the City could improve communication among people. Cheek said she felt it had been a very productive day and Merry Christmas. McIntire said she wanted to voice her appreciation for so many people coming. She spoke about encouraging people to come and listen and learn. She wished everyone a Merry Christmas and a Happy New Year.

City Planner Comments

Fregonese wanted to thank everyone for being on the Planning Commission. He thought this was a good group to work with and things were getting accomplished. He said from what he had been told, with what the committee was doing things were being moved forward.

Adjourn

Halvorsen made a motion, seconded by Daugherty, to adjourn at 8:10 p.m.; motion carried.

[Position #6 - Brian Halvorsen: Motion](#)

[Position #5 - Scott Daugherty: 2nd](#)

[Position #1 - Greg Baumgart: Absent](#)

[Position #2 - Janet McIntire: Approve](#)

[Position #3 - Pat Olson: Approve](#)


[Position #4 - Mary McGinnis: Approve](#)

[Position #5 - Scott Daugherty: Approve](#)

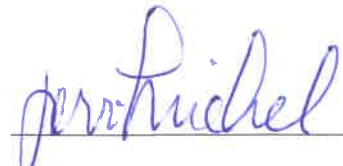
[Position #6 - Brian Halvorsen: Approve](#)

[Position #7 - Penelope Cheek: Approve](#)

MINUTES APPROVED THIS 22nd DAY OF
January, 2019



President Janet McIntire



City Manager Terri Michel

Stephen Chipman

8590 Victoria Ave.

Rockaway Beach, Oregon

City of Rockaway Beach Planning Commission:

Response to Rockaway Beach Draft Ordinance #18-432

My name is Stephen Chipman owner of 8590 Victoria Avenue, Rockaway Beach. I have owned the property since the death of my father, Robert Louis Chipman. My father purchased the property in the late 80's early 90's. The property has remained under the same family ownership since acquisition. All utilities and maintenance, such as: water, sewer and any applicable requirements have been complied with continuously in such timeframe. We have supported and enjoyed the city's growth and have been proud to have been a part of it. This proposed draft amendment **Section [3.091]; Residential Manufactured Dwelling (RMD) Zone** wishes to cancel a right that has been in effect since original purchase. I disagree with this proposed amendment for several reasons:

1. **a) Quiet Enjoyment:**

A Covenant that promises that the grantee or tenant of an estate in real property will be able to possess the premises in peace, without disturbance by hostile claimants. **Quiet Enjoyment** is a right to the undisturbed use and **enjoyment** of real property by a tenant or landowner.

b) Fee Simple:

A permanent and absolute tenure of an estate in land with freedom to dispose of it at will, especially in full **fee simple absolute** a freehold tenure, which is the main type of land ownership.

These two concepts are covenants or rights that are granted to purchasers of Real Estate to guarantee their rights against hostile or negative proposals that affect the use of the property. These rights or covenants have been the basis of Real Estate law since conception.

2. The promise of the law of "Expo-facto" which states, "The passage of any rule or ordinance that wishes to make a previously legal act unlawful." This proposed draft ordinance seems to be in direct violation of this law, which has been in effect since its adoption many years ago.

3. The outlawing of previously allowed uses has detrimental consequences to affected property owners. The taking or the elimination of such uses should be used only as a last resort, and for the common good. "Eminent Domain" is the operation of law used to acquire property by the Government, Quasi Public/Private organizations and others. This law requires that it be pursued only for the "public good" and requires the affected landowners receive fair compensation for their inconvenience. This proposed draft ordinance offers no such remedy. Furthermore, the notice received for this public hearing state on page 1 third paragraph down: *"The City of Rockaway Beach has determined that adoption of these amendments may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property."* This leaves the affected landowners without recourse, except the right to appeal the adopted ordinance to the Oregon Land Use Board of Appeals.

4. The lawful right to appeal is also under attack by the proposed amendment to **Section 11.040 Notice of Public Hearing**. *"This Amendment states: "Amend Section 11.040, Notice of Public Hearing: Removes requirement to send public hearing notices by certified return receipt mail."* If this amendment is adopted, out of town, vacationing or hospitalized landowners may or may not be notified when adverse or positive actions involving the property in question are to be considered. This proposed amendment removes the requirement of those wishing to enhance, limit or outright cancel the rights of landowners without the simple benefit of verifiable notice of such actions. This seems highly suspect to me. As a matter of fact, this proposed amendment seems to have already been adopted, as evidenced by the current notice of Public Hearing being mailed to me without return mail certification. Why call for a public hearing on an amendment that currently isn't being followed? It is quite disturbing, since one has the power to limit the use of my property without prior notice of said action. This action is unacceptable and completely unfair. Verifiable notification of current or future landowners should be paramount and vigorously protected. Actions affecting the value or uses of the landowner's property should be respected and their voices should never be silenced by Government overreach.

5. The proposed amendment **Section 3.091, Residential Manufactured Dwelling (RMD) Zone**, wishes to take away permissible uses of recreational vehicles. How does this proposal help the city of Rockaway Beach? It doesn't help attract more residents to the area but does help run current residents out of town. If adopted, the current landowners who use recreational vehicles must move to a Recreational Vehicle Park. Thus making a landowner, *a tenant or renter*, which is exactly the position we have strived to escape. The dream of land ownership should not be squashed by Governmental action unless it is for the public good as determined under the "Eminent Domain" law. What greater good comes from taking current lawful landowners, and reducing them to renters in order to continue living in the city of Rockaway Beach? Providing and protecting the rights of residents and renters alike is of high priority and importance to myself and it should be the same for the city. In evidence of such fact, I point to The Victoria Avenue Tsunami Fund. The tsunami escape route on Victoria Avenue was inadequate for many years. The road was riddled with potholes and obstructions since the day my father purchased the property. That is why I and many of the landowners on Victoria Avenue donated to Tillamook County to pave Victoria Avenue so that all residents and renters alike have a better chance at survival if the worst should occur. This action taken by the citizens of Rockaway Beach is for the greater good. I didn't ask for reimbursement, nor did the other citizens who donated to the project. We did it for the benefit of all, whether it was to be used for recreational vehicles, manufactured homes, or stick built homeowners. Why should recreational vehicle landowners or even landowners in general be punished for purchasing their dream? To be denied rights after the purchase of property that was previously accepted is unacceptable and I for one will fight. I will stand with other landowners affected by this predatory amendment to ensure our voices and rights are respected and heard.

Sincerely,

Stephen Louis Chipman
12/14/2018

Rockaway Beach City Council
276 HWY 101 S
Rockaway Beach, Oregon 97136

Letter in support of Zoning Amendment 4.050- Creates regulations for sandwich board signs.

I support the planning commission and city management's decision to create a zoning ordinance for the limitation of sandwich board signs.

Recently we have seen a proliferation of the use of sandwich board signs in Rockaway Beach. Some establishments are using 3-4 board signs in addition to all of the other signage on their business frontage. Worst of all they are placing them in the shoulder of the road on the West side of Hwy 101.

This creates the following issues:

1. **The signs are detracting from the charm and historic beauty of our small town. Who wants to take a photo of the Red caboose or a Steam Train and end up with a signboard in the picture. Our town is beginning to look like a flea market on weekends.**
2. **Signs on the West shoulder of Hwy 101 create a big hazard for the hundreds of cyclists who ride the coast annually as this is the only place for them to ride. A sign becomes a huge traffic hazard for them as well as for pedestrians and motorists.**
3. **Advertising signage on any State Highway including within City Limits has always been a violation of ODOT regulations regarding placement of signage in state road right of ways. Obviously these regulations are not regularly enforced.**

By adopting this ordinance we will keep the historic charm of our town but still allow sandwich board's to be used (one per business) on the sidewalk in front of their establishment in addition to other building signage. Adoption of this ordinance also will allow for code enforcement from the City of Rockaway if any business is out of compliance.

Note: Temporary signage to support a one time non-profit event such as a Senior Meal's weekend pancake breakfast should be continued to be allowed. This zoning ordinance is for businesses who regularly use more than one sandwich board and especially for those who place them on the West side of Hwy 101 across the street from their business.

Thank you for your consideration and support of this issue.

**Craig Zuck
390 N Ocean St.
Rockaway Beach, Or 97136**

To: City Council

TO: Rockaway Beach City Council

12-15-2018

FROM: R & S Edlin 1018 S Easy St

SUBJECT: Proposed Amendment 3.091.

Dear Council Members

After corner lot set back requirements, and a 50+ year old common driveway, we have 2200 sq. ft. left. What conforming use is left after RV is deleted, and who would buy it? Only RV use makes since here.

Without knowing non-disclosed planners reasoning, it's impossible to be specific, or raise relevant issues to defend our rights. Planner staff report says there is an attachment stating their reasoning, there isn't.

We called city hall on the 11th, 12th & 14th to get a copy of planners reasoning that never came, after we were told it would be e-mailed to us. We got a call on the 14th saying it was posted online, it's not, only a planners 4 day late staff report saying there is an attachment. This isn't right, or fair. Legal? We'll see.

We are denied knowing what other land use is necessary for our property, and how it's consistent with the CP, and why our existing land use is no longer the element your CP is based on? What's changed?

No other land use needs, justifies singling out one group out of 7 allowed uses in the RMD for obvious re-development of their property? This may be legal, but it is serious discrimination, and is not right.

RV use in RMD has been allowed since day one, thru many planners' eyes, and public input.. If they all thought it was good, why isn't it good now? What required need for our property has changed this?

These are a few of many questions the plan reasoning attachment may have answered. Not knowing restricts our testimony, and takes us out of the process. This raises an issue substantial enough to protect our appeal rights. Also, were any builders, past, or present involved in planning 3.091?

Partial damages if 3.091 is approved.

Our two neighbors, us, and others, had to pay about double any other comparable lot for the RV use planners want to delete, F. Approval of 3.091 is a big red flag on our investment, by putting us all in a nonconforming use, and leaving our lot with no sellable conforming use, if any at all after RV is deleted. We have to disclose all this to potential buyers, and it shows up on a title search, scaring buyers away.

Banks won't loan on this, and applying for a new RV placement permit is a change, so RV use is gone, and we lose our cost of improvements specific to RV use, in addition to the cost a buyer would have to convert to a non-RV use, which would further discourage any buyers, that may look past our big red tag.

Not allowing an RV to be stored on our land, is way out of line, devaluing, discrimination, as others are allowed. All this leans hard on communism, and this thinking should not have a place in our community.

All this will drastically reduce our resale value, marketability, and reduce what cost many around 70k, to around 30 to 35k, the price we would pay for a comparable lot without RV use allowed, if we could even sell this discriminatory mess that you're being asked to approve, and for hidden, non-disclosed reasons.

We are in AZ, and cannot attend the 12-18 hearing. We have been denied the time, and information needed to make a compelling testimony, if we could attend, apparently by design, to limit testimony.

This is Saturday the 15th, we have to priority mail this by noon to be to planning in time. We are out of time to ask, and fight for what we need, and is promised to be out on, or before the 11th in the public notice, and in the staff report, and is not out. We have pictures taken on the 15th showing there was no reasoning attachment with the staff report online, as stated, in case they magically appear there later.

This is not right for many reasons, mainly damage to public trust, and appearances of possible special interest from planner # 1, or more during 3.091 planning process. We strongly disagree with this, and protest 3.091. We ask you to vote no, or delay until we have time to find out what's being hidden from us, and the public, and if we all need council, or state involvement as it appears all of us affected, do.

Thank you for your time.

A handwritten signature in black ink that reads "Ralph Edlin". The signature is written in a cursive, flowing style.

Ralph & Shelley Edlin

Shelley_edlin@msn.com