

**PORT ORFORD PLANNING COMMISSION
CITY COUNCIL CHAMBERS, PORT ORFORD CITY HALL
REGULAR MEETING, PUBLIC HEARING and WORKSHOP
Tuesday, September 7, 2021
3:30 PM**

Now Meeting Virtually Only

Tue, September 7, 2021 3:30 PM – 5:30 PM

Planning Commission 9/7/2021
Tue, Sep 7, 2021 3:30 PM - 5:30 PM (PDT)

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Agenda

1. Call to Order
2. Planning Chair Comments
3. Additions to the Agenda
4. Approval of Agenda
5. Approval of Minutes: August 3, 2021
6. Comments from the Public
7. Public Hearing - None
8. Planning Matters
 - A. Review of Building Heights and Exemptions in 4-C and 5-I
 - a. Staff report from City Planner, Crystal Shoji

Other Business

- A. Announcements and Communications:
 - City Planner Comments
 - Planning Commission Comments
- B. Continuing Business
9. Public Considerations
10. Adjourn

CITY OF PORT ORFORD PLANNING COMMISSION

MINUTES OF MEETING

August 3, 2021, 3:30 p.m.

Regular Meeting, in person and virtually held

555 W. 20th Street

Port Orford, Oregon

Date Draft:

Date Corrected:

Date Final:

1. Call to Order.

The regular meeting of the City of Port Orford Planning Commission was called to order Tuesday, August 3, 2021 at 3:32 p.m. by Chair Nieraeth.

Those members present were: Chair Nieraeth, Vice Chair Berndt, Comm. Jezuit, Comm. Thelen, Comm. Rinehold. Comm. Schofield, Comm. Rossi.

City staff present were: Planner Crystal Shoji, Assistant Planner Clark and City Attorney Kudlic

Others present: Steve Lawton, Penny Suess, Tom Calvanese.

2. Planning Chair Comments.

Chair Nieraeth cautioned virtual attendees that she might not see them. [*Recording sound quality of Chair Nieraeth was poor. Minutes are to the best of recorder's ability*].

3. Additions to the Agenda: None.

4. Approval of Agenda for August 3, 2021: Comm. Jezuit moved to approve the August 3, 2021 agenda with Comm. Thelen as second. *Motion carried 7-0.*

Discussion: None

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

5. Approval of Minutes July 6, 2021: Comm. Thelen moved to approve minutes of the July 6, 2021 meeting with Comm. Jezuit as second. *Motion carried 7-0*

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

6. Comments from the Public:

Leila Thompson, former resident of Port Orford now outside boundaries, shared a conversation with a landowner on Beech Street and 101. The gentleman stated he has plans to build a 100-foot observation tower in town. He stated he can build it, because he will open it to the public. She is concerned.

Penny Suess, Port Orford resident, speaks in support of building height changes to Port Orford's zoning code as outlined in Commissioner Thelen's motions 1, 2 and 4. These changes will promote a harmonious scale across zones without radical differences in height among commercial and residential buildings. Ms. Suess goes on to say motion 3 is agreeable to her; however, confusing. She does not think the description of south of Oregon Street is right, because Oregon runs north and south. She believes there are parcels south of Dock Road in the 7-MA, which would not be covered by this motion. She wonders if the intention is to allow those to be 45 feet. Ms. Suess agrees with motion 5A, but no other exceptions other than for chimneys should be allowed. Ms. Suess objects to motion 5B strenuously. She feels 70 feet antennae would be horrible eyesores for the town. This is not litigated by a possible use in communication during natural disasters. She is not willing to trade permanent intrusion on the view scape for an unlikely benefit. Ms. Suess asks about what "for governmental use" means in motion 6.

Steve Lawton, Port Orford resident, speaks on commercial heights. He hopes the Planning Commission understands that limiting commercial heights to 35 feet will not hurt the local economy. He looked at the last 7 major commercial and medical buildings constructed in Port Orford in the past two years, and they have all been under 35 feet. Mr. Lawton strongly supports eliminating section 17.32.50, Additional Standards Governing Conditional Uses, Exemption Clause, which he believes creates a loophole to allow for much taller buildings in any neighborhood including residential neighborhoods. Mr. Lawton expressed his appreciation to commissioners for contributing to the community by serving on the Planning Commission.

7. Public Hearing – None.

8. Planning Matters

- a. Presentation from Tom Calvanese on Port of Port Orford activities: [*Port President Thompson's audio is of poor quality. Minutes are to the best of the recorder's ability*]. President Thompson introduced a large redevelopment overview. An area in question is the area above Dock Road. The essential section below Dock Road, Port does not see a need for exemptions in their process. Mr. Calvanese shared a link to commissioners that reflects what President Thompson presented. Mr. Calvanese spoke on four points: 1) Generally speaking, the 45-foot limit is suitable for the marine use area. 2) An exemption for greater than 45 feet to accommodate the high-capacity cranes and noted that should not necessarily be a grandfather clause but should allow for the new cranes that will be

developed possibly located in a slightly different spot on the dock. 3) Another exemption would refer to the area above Dock Road that is within the 7-MU. The Port is concerned, because Dock Road is the tsunami evacuation route for the Port. The redevelopment project is focused on making sure Dock Road is hardened and modified to ensure it is a suitable tsunami evacuation route. The Port does not feel it is wise to have a 45-foot limit above a tsunami evacuation zone on unstable ground, which will be affected if there is an earthquake, which would affect the tsunami evacuation route using the existing Dock Road. 4) As mentioned previously, there was talk about the need for an exemption for an observation tower for the Port. The Port has no plans to put up an observation tower.

Ms. Thompson identified that current plans are for redevelopment that would include upgrading cranes. Mobile use has not been spoken. The Port has only the stationary crane. Mr. Calvanese suggested for the purposes of heights it might be stated as boat hoist or high-capacity crane or some statement that does not use the word stationary just in case one of the cranes ends up being a mobile crane. That would prevent change in the future. A high-capacity crane is a good description of what they are using. A boat hoist is a very short apparatus.

Planner Shoji addressed two different height limitations in one zone as acceptable if the area of the zone can be easily defined. If it cannot be defined, it cannot be given a special height limitation. Tax lots change so cannot be used to define. Streets can be used if a person can define where the street is using a surveyor.

[Legal Counsel Kudlac is concerned there are two meetings going on, City Hall and virtual. She is not sure which meeting is being recorded. The virtual meeting was the only meeting recorded. This portion of the City Hall meeting was not recorded.]

- b. Review of Building Heights and Exemptions in 4-C and 5-I Zones: Planner Shoji addressed the timelines document provided to commissioners. She advised it is time for a decision to be made. Code language needs written, so commissioners need to decide what they want in the code language. Once the document is created and presented to commissioners, the Planning Commission can then make motions. It will go to a public hearing and people will have input. Commissioners might want to make changes at that time, which is expected. This is a 3-month process after commissioners get an idea of what they want to present. Commissioners have the staff report first presented.

Commissioners have the ordinance. The ordinance is how things will fit into the code. There are a lot of exemptions in the ordinance addressed by Mr. Thelen in a memo to the City Council. Planning has not begun to discuss those. Staff needs to review the exemptions, because there are certain items that cannot be included in the exemptions. Planner Shoji cautions Planning commissioners not to make this too difficult for the City of Port Orford. Only change things that make a difference to Port Orford even if another city might have it in their ordinance.

Planner Shoji advised that an exemption in a tsunami zone is not something that Planning has to make a motion on. It is already in the code. The observation tower put in as an exemption in the code the council adopted was due to a tsunami group speaking of an

observation tower that they thought the city would like to have; therefore, it was put in the language as public observation tower.

Chair Nieraeth reiterates that Planning Commission needs to discuss specifically the 4-C and 5-I zones and look at the exemptions. Planner Shoji suggested making the motion on items the Planning Commission agrees on and then move on.

Commissioner Berndt moved that 4-C zone allowable building heights be changed to a maximum of 35 feet with Commissioner Rinehold as second. *Motion carried 7-0.*

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

Commissioner Berndt moved that 5-I zone allowable building heights be changed to a maximum of 35 feet with Commissioner Rinehold as second. *Motion carried 7-0.*

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

Additional standards concerning governing conditional uses: Issue most discussed on this was people not wanting landowners to amalgamate properties, make them larger and then build taller buildings within those. Commissioner Thelen did not find another town that has this clause. He is unsure of where it came from.

Commissioner Rossi moved that section 17.32.050, Additional Standards Governing Conditional Uses be deleted from the code with Commissioner Rinehold as second.

Motion carried 7-0.

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

Planner Shoji reminded commissioners that the original staff report includes building height limitations. Earlier discussion indicated Planning Commissioners might want to change the definition of stationary boat hoist to what Mr. Calvanese suggested. Planning Commissioners have discussed wanting a better definition of public observation tower. Planner Shoji suggested verbiage such as approved community water tower. Planner Shoji will bring definitions for “public” to the next meeting for commissioners to discuss. Public observation tower mast is subject to review of definitions or removal.

Commissioners agree to leave high-capacity boat hoist but remove “stationary.”

By consensus, commissioners agree to the following:

The following types of structures or structure parts are not subject to the building height limitations of this type:

- Boat hoists in a Port facility
- Chimney not taller than 5 feet
- Community water system
- Fire and hose towers
- Transmission towers
- Communication towers
- Other projections as required by Oregon or federal law

Marine zone is discussed:

Currently there is a 45-foot height limit at the Port and 35 foot limit at the upper lots.

Chair Nieraeth suggested changing all marine zone to 35-foot height limit.

Commissioner Rinehold moved to change the 7-MA zone maximum height from 45 feet to 35 feet with Commissioner Jezuit as second. *Motion carried*

Discussion: None

Comm. Thelen	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>	Comm. Schofield	<u>Yes</u>
Comm. Berndt	<u>Yes</u>	Comm. Rinehold	<u>Yes</u>	Comm. Rossi	<u>Yes</u>
Comm. Nieraeth	<u>Yes</u>				

9. Considerations:

Planner: None.

Commissioner: Comm. Thelen expressed appreciation to the chair and commissioners. Chair apologized for the recording issues.

Public: None.

10: **Chair Nieraeth adjourned the August 3, 2021 meeting at 5:20 p.m..**

Staff Report

To: Krista Nieraeth, Chair
Port Orford Planning Commission

From: Crystal Shoji, AICP
Port Orford Planner – Shoji Planning, LLC

Date: For Planning Commission Consideration at September 7, 2021 Meeting

Subject: Code amendments considered at Planning Commission Workshops, and proposed at the Planning Commission Workshop held August 3, 2021

The Planning Commission has been considering recommendations for height amendments that will be presented and considered by the Planning Commission and the public at a public hearing. Recommendations from the Planning Commission Public Hearing will be provided to the Port Orford City Council. The City Council will hold a public hearing, consider the amendments, and make a decision.

Processes for amendments to zoning and the Comprehensive Plan are included in Chapter 17.40 as follows:

Section 17.40.040 Criteria and Approval for Zone Text or Map Amendments.

An amendment to the zoning ordinance text or map is appropriate when there are findings that all of the applicable conditions exist.

- a. Either the original wording or designation was made in error, or the amendment is justified due to changing circumstances.*
- b. Any amendment must comply with the Port Orford Comprehensive Plan Goals and Policies.*
- c. The map amendment must be compatible with surrounding zoning.*

Proposed Amendments to Port Orford Municipal Code Title 17, Zoning, are Text Amendments:

Language included within the current code is shown in *Italics*.

Language proposed to be removed from the code is shown with ~~cross-outs~~.

Language proposed to be added to the code is shown in **Boldface**.

Port Orford Municipal Code Chapter 17.04

17.04.030 Definitions

“Observation tower” means a public structure used to view events from a long distance and to create a 360-degree range of vision.

“Public” means open to and shared by the citizens of Port Orford for their use.

Port Orford Municipal Code Chapter 17.12

17.12.010 Residential zone (1-R)

G. Height of Buildings. Except as provided in Section 17.20.050, in a 1-R zone no ~~building~~ **Structure** shall exceed thirty (30) feet and two stories in height.

17.12.010 Residential zone (2-R)

G. Height of Buildings. Except as provided in Section 17.20.050, in a 2-R zone no ~~building~~ **Structure** shall exceed thirty (30) feet and two stories in height.

17.12.030 Commercial zone (4-C)

F. Height of Buildings. Except as provided in Section 17.20.050, in 4-C zone, no ~~building~~ **structure** shall exceed ~~forty-five (45)~~ **thirty-five (35)** feet in height.

17.12.040 Industrial zone (5-I)

F. Height of Buildings. Except as provided in Section 17.20.050, in a 5-I zone no ~~building~~ **structure** shall exceed ~~forty-five (45)~~ **thirty-five (35)** feet in height.

17.12.050 Controlled Development zone (6-CD)

D. Height of Buildings. Except as provided in Section 17.20.050, in 6-CD zone, no ~~building~~ **structure** shall exceed thirty-five (30) feet in height

17.12.060 Marine activity zone (7-MA)

E. Height of Buildings. Except as provided in Section 17.20.050, in a 7-MA zone, no ~~building~~ **structure** shall exceed ~~forty-five (45)~~ **thirty-five (35)** feet in height.

17.12.080 Shoreland overlay zone (9-SO)

G. Height of Buildings. Except as provided in Section 17.20-050, in a 9-SO zone no ~~building~~ **structure** shall exceed thirty (30) feet in height.

17.12.090 Battle Rock Mixed Use Zone (10-MU)

E. Design Standards for all New Development. All new structures and substantial improvements in a 10-MU Zone shall conform to the following design standards:

1. Building Size. Any building more than 125 feet in length, ~~or exceeding 35 feet in height~~ or with a footprint greater than 6,000 square feet shall be considered a large structure requiring site plan review in compliance with standards set forth in Chapter 17.33.

H. Height of Buildings. Except as provided in Section 17.20.050, in a 10-MU zone no ~~building structure~~ shall exceed thirty- five (35) feet in height.

17.20.050 General exception to building height limitations.

The following type of structure or structural parts are not subject to the building height limitations of this title: ~~stationery~~ boat hoist or crane in the Port Facility, chimney or smokestack that does not exceed 5 feet over the building height limitation of the zone, ~~tank, church spire, belfry, dome, monument, fire and hose towers, public observation tower-tsunami evacuation structure, mast, aerial cooling tower, elevator shaft, transmission tower or communication facility towers authorized by state or federal law, smokestack, flagpole, radio, or television towers, municipal and community water system towers approved by the City and the Oregon Health Authority, and other similar projections.~~

17.32.050 Additional standards governing conditional uses.

B. Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

*2. ~~A church, hospital, nursing home, convalescent home, or retirement home may be built to exceed the height limitations of the zone in which it is located to a maximum height as — determined by the State Fire Marshal if the total floor area of the building does not exceed one and one-half times the area of the site and if yard dimensions in each case are equal to at least two-thirds of the height of the principal structure~~*¹⁷

17.46.080 Evacuation Route Improvement Requirements.

D. Public Tsunami Evacuation Structures: *Public Tsunami evacuation structures are not subject to the building height limitations of this code.*

Recommendations

1. Please consider the proposed amendments presented within this document to assure that they agree with the intent of the Planning Commission so that staff can set the dates for the public hearings, organize the Ordinance for presentation to DLCDC and to the public, and provide public notice.

2. Throughout this document I have proposed changing the word “building” that is included within the building description height limits sections of each zone to “structure.” The word “structure” is a more accurate representation of the Planning Commission’s intent, and it is consistent with Section 17.20.050 General exception to building height limitation. The height limitations deal with building heights, but the exemptions in Section 17.20.050 deal with structures, which may or may not be buildings. The proposed language ties the language together so that there should be no question of intent. The definition of structure from our code is included below:

Section 17.040030 Definitions

“Structure” means that which is built or constructed. An edifice or building or piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having location on the ground.

Proposed Findings as the Basis of the Planning Commission’s Legislative Decision

The findings proposed below are based upon Section 17.40.040 Criteria (included on the first page of this document) and approvals for Zone Text or Map Amendments:

1. The amendments proposed within this document are zone text amendments, justified due to changing circumstances within the development patterns within the City of Port Orford, and along the Oregon Coast.
2. The proposed amendments do not conflict with any of the Statewide Planning Goals.
3. The proposed amendments comply with the following Port Orford Comprehensive Plan Goals and Policies:
 - a. ***Statewide Planning Goal 1: Citizen Involvement.***
City Policies: (2) and (3)
Citizens participated in all phases for consideration of the amendments, including, but not limited to data collection, workshops, and public hearings.
 - b. ***Statewide Planning Goal 9: Economic Development.***
City Policies: ((6)
Encourage human-scale amenities within commercial areas and adjacent to trails and lookouts to encourage tourism and enhance the city’s sense of place.

The Planning Commission may adopt or amend the above findings to support their decision.