

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**September 10, 2018**

**Planning Commissioners Present:** Lee Hardy, Jim Patrick, Mike Franklin, Jim Hanselman,

**Planning Commissioners Present:** Bob Berman, Rod Croteau and Bill Branigan (*all excused*).

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Hardy, Patrick, Franklin, and Hanselman were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of August 13, 2018.

Hardy noted a change to the work session meetings to say that she said there had been seasonal changes, instead of that she thought there were.

**MOTION** was made by Commissioner Franklin, seconded by Commissioner Hardy to approve the Planning Commission work session meeting minutes of August 13, 2018 with one minor correction. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission regular session meeting minutes of August 13, 2018.

**MOTION** was made by Commissioner Hardy, seconded by Commissioner Franklin to approve the Planning Commission regular session meeting minutes of August 13, 2018 as presented. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.** No Action Items.

5. **Unfinished Business.** No Unfinished Business.

6. **Public Notices.** At 7:02 p.m. Chair Patrick opened the public hearing portion of the meeting by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Patrick reported a site visit. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File No. 1-SUB-18/2-VAR-18/3-GP-18.**

Patrick called for staff report. Tokos reviewed his staff report. He noted the public comment letters received for the hearing and said they had concerns about the geologic report and work being done adjacent to the Harbor Crescent subdivision. Tokos reported that the biggest issue with staff was the utility locations. He noted that the geologic report was specific to the subdivision. When individual homes were to be built, they would have to do individual geologic reports to address the build of each home. Tokos reviewed the variance next and why the development of the street would not meet the standard. He then reviewed the 15 conditions of approval for all three land use applications.

Franklin asked if the typography was more unstable than other subdivisions in the area and asked if the other subdivision have to go through the same process. Tokos explained that the area was a historic landslide block. He said couldn't say what its relative significance was for landslide history compared to other subdivisions. The City's requirement was that they needed a geologist to determine if the subdivision was suitable for the intended

development. If structural remediation was needed to make it suitable, that would be where a geo technical or civil engineer would get involved. Hanselman asked if the geological report was only good for 5 years. Tokos said yes and was why they did a supplemental memo to update the report. Hanselman asked if updated form was as detailed as the original report. Tokos said their letter said they did both reports and went through and decided what needed to be updated. Hanselman asked if the subdivision was approved would each lot have to do another geological report. Tokos said they would. They could do a report for multiple lots, if they were doing a couple of lots, and would be required under the code.

Patrick asked how the stormwater would be mitigated from the houses because he didn't see an easement for system. Tokos said the hydraulic analysis would have to do some worse case assumptions to analyze the amount of impervious surface on the lots commutatively. This would be done so they could analysis for a 25 year/24 hour storm event and determine if the city system had the capacity to add it to the system or not. He believed all of the lots were configured as such to get the stormwater to the city system in some capacity. Hanselman was concerned about the slope issue raised in the public comment letters and staff report. He asked how much of land mass had a slope of 12 percent or greater. Tokos said there were maps included in the application to show contours. The steeper slopes would affect the far east side adjacent to the Harbor Crescent subdivision and the northwest corner adjacent to RV park. He didn't calculate the percentage. Hanselman noted his concerns on the west side of the subdivision drainage. Hardy asked if the process required the impact on adjoining properties to be analyzed and addressed specifically with respect to drainage soil stability and those kinds of things. Tokos said yes and a geological report analysis would look at the site's suitability, and as part of the analysis they would look at how to construct without affecting the properties that were around the site.

**Proponents:** Curt Fisher from AKS Engineering & Forestry, LLC addressed the PC. He said he concurred with the staff report and appreciated the geologic overlay comments. He said they were careful to make sure the geo report responded in the applicable ways. Fisher noted that they fully intended to follow the recommendations followed in the production of the final construction plans and installation of the improvements for the subdivision. Fisher noted that this was just a subdivision application and said they had met the applicable city codes and standards. They were prepared with the recommendations of the geo report. He reviewed how the grading would need to be done with the geologic overlay. He requested that the PC approve their application.

Franklin asked if the removal of the sidewalk would be on the uphill side, the downhill side, or the entire subdivision. Fisher said it was only for the hammerhead section. To require the full street and sidewalks would mean more grading and felt it was why they should be removed. Patrick asked what the assumptions were for lot coverage. Fisher didn't know what the assumptions were. David Carr addressed the PC. He noted that he was the registered engineer for plans. Carr reported that typically a minimum size for a house was 2,500 square feet and they would be looking at 3,000 square feet of impervious area for each. Hanselman was concerned this meant there would be a lot of run off. He asked if the geo engineer could be required to be onsite when the foundations were being poured for each lot build. Fisher said they would engage the geo tech engineer in the subdivision application. There were no building permits at that time but they would be evaluated at the appropriate time.

**Opponents:** William Chadwick addressed the PC. He submitted a letter to the PC and read it for the record. Hardy and Franklin felt Chadwick was making a reasonable request.

Teresa Atwill addressed the PC. She noted that she had submitted a letter to the PC. Atwill said she was on the Coastal Natural Hazards Planning Group and knew it was challenging for cities to do something concerning geo reports because once they were written and certified by a State geologist, there wasn't a lot you could do about it. She said since this was in a landslide zone, it was an opportunity to make sure that they could set a protection for the surrounding homes by making sure they did an adequate job of analyzing the geology instead of leaving it up to the home builders. She noted that all the developer would be doing was prepping the property and the owner would still have to do a geological report with no guarantee that the slopes would be ok. She thought the geologic report should be something that would evaluate if each lot was buildable and the kinds of building people would have to do to protect the other properties. She felt they needed to do a more detailed survey instead of one done in a couple of hours. Atwill was concerned that they added fill to property in 2007 and 2008 that wasn't there when the original report was done. She asked that the property owner identify where the fill was and remove it. Atwill didn't want to see a landslide because of development on the bottom of the hill.

Karmen Vanderbeck addressed the PC. She read the letter she submitted to the PC for the record. Hanselman asked if the Harbor Crescent subdivision fell in the same geo hazards zone as new subdivision. Tokos said yes.

Eric Knutson, Cam Brant, Bernadette Salano addressed the PC and stated they agreed with the comments from the other neighbors and supported their recommendation.

Caroline Starsole addressed the PC and said when she purchased her home she had asked her realtor about the lots below her lot and was told it was in a no build zone. She attended the meeting to educate herself.

Laura Seager and Barbara Coyle. Supported the previous neighbors comments.

Atwill address the PC again and asked to have the record kept open for seven days in order to review the Planning Department staff report. She said the community members knew they were in a landslide hazards zone and was why they were so concerned about what was happening at the toe of the slope where it would be more likely to have a landslide.

**Rebuttal:** Fisher addressed the PC. He said in terms of the request to defer the decision until the geotechnical report was revised to specifically address the issue of long term slope stability, he said the report was intended to specifically address slope stability and the existence of the geologic overlay was intended to address long term slope instability. He said they had made great efforts to address the applicable criteria to insure long term slope stability. Fisher noted that it was not in the interest of the applicant to do a development that was on shifty ground or had the potential to slide away or bring down earth from adjacent properties. He said the request that the geotechnical report should include permanent engineering solutions wasn't in the scope of a geological report. They had presented a preliminary report to address these concerns as per code and the conditions. Permanent engineering solutions would be submitted with improvements of the streets prior to platting. Fisher encouraged the PC to let the process go forward. The soil deposit was referenced in the technical report with a recommendation to have it removed and treated appropriately. Fisher believed both the applicable criteria and provisions of the code in the review process would take place as the final construction was permitted and the plat was recorded and felt it would adequately address all the concerns.

Tokos suggested that the request to have the hearing be left open be kept open to the 17th of October PC meeting. He thought that if there was anything the applicant should analysis, it was a good time. He suggested the PC do deliberations at the current meeting and figure out what needed to be considered by applicant. The record would be left open for seven days until September 17th, then there would be an additional seven days for people to respond to new testimony. The applicant would then be entitled to final argument and would have another seven days. This would mean the PC would come back to continue the hearing on October 8th.

Franklin was concerned that there could be a landslide and asked why it wasn't an advantage for the developer to come up with a fix all solution on the back wall/back cut of the property so it was continuous and completed at the start to ease everyone's mind. Fischer said the plans that were in front of the PC were developed based on best engineering practices. This would be asking for over engineering of what they had developed for on the recommended engineer standards, and felt over engineering at that time was not warranted. Patrick asked if the engineering was for the road bed, sidewalks, and drainage but not individual lots. Fischer said yes, the area along the east side slopes were graded and finished according to the recommendation of the geo report. Hanselman asked if grading on the east side was done with the geo standards, what happened when a new owner came in to build and cut into the slope. Tokos said when people came in to develop they would have to do their own geo report specific to their build. They wouldn't have the right to just excavate the site. Hardy asked how much the City would take responsibility to disclose to potential buyers the potential risk of flawed development or messing up the engineering. Tokos said the City didn't take liability for this and was why they set us a geologic permitting process with an engineering geologist who signed off on it for suitability and a geotechnical engineer or civil engineer who signed off on structural remediation if needed to make a site suitable. They would put their stamp behind it and were qualified to do this. There were a couple of different statewide boards that were available for people to take issues to if the work was done poorly. Hardy asked if there could be deed restrictions put in place. Tokos said when updating the geo permit review, they decided it wasn't a provision that could be included in the updates.

Hearing closed at 8:02 p.m.

Hardy suggested the developer consider taking the initiate for deed restrictions to make sure there was a full clear understanding for buyers in terms of what they were looking at and what needs they would have to satisfy. Franklin agreed with Hardy's suggestion. Hanselman agreed with Hardy's suggestion. He was torn on how it because so much was at risk for so many people. He wanted the three missing PC members be included in the decision and said he

wasn't ready to vote on the matter. Hanselman proposed waiting even longer to make a decision until he felt more comfortable with the reports. Patrick agreed with Hanselman on his point on having the missing PC members be a part of the consideration. He was concerned about the current grading of the lots and wanted to see more details on this. Patrick liked the idea on the permanent builds but there was no way to know what people would want to build and how soon and didn't think it was feasible. He wanted the other PC members to review the record and asked if additional comments could be taken. Tokos said yes, the record would still be open. Hanselman said he would feel more comfortable with something along those lines. Patrick asked if the previous applicant for a subdivision was done before the geologic code. Tokos said yes, it was before the iteration of the code.

**MOTION** was made by Commissioner Hardy, seconded by Commissioner Hanselman to keep File No. 1-SUB-18/2-VAR-18/3-GP-18 record open for seven days, with another seven day response period, followed by seven days of final arguments, and a hearing continuation on October 8, 2018. The motion carried unanimously in a voice vote.

**B. File No. 3-VAR-18.**

Tokos gave his staff report for File 3-VAR-18 and noted his conclusions.

**Proponents:** Matthew Brown addressed the PC and noted the criteria that should be used to evaluate the approval. He explained that the intent of the signage was to create a user friendly environment. He noted that the letter height was part of the building architecture and photos from Highway 101 showed that it allowed for visibility from the highway. He noted the window of visibility and illumination was limited based on the building boxing it in. The orientation of the signs on 9th Street versus the adjacent street was placed according to function and entry points to the campus, and the placement would guide people to emergency. As far as the three square foot directional sign code variance, the intent was to give a visitor enough time to comprehend what was on the sign to make appropriate choices. He noted they were scaling down the signs and placement versus the existing pole signs.

Franklin said he didn't have a problem with the monument signs and emergency sign. He asked who the 6 foot by 85 foot sign benefited. Brown said it had target value to see it from a distance, and was for tourists and those who were unfamiliar with Newport. Franklin thought the sign could be half the size and questioned if it was needed. Hanselman said he didn't ever see signs the size they were requested He did think signage was important and wanted people were aware when driving and not distracted by signs. He wanted to have the minimalistic approach and had a problem with signs on corners where someone couldn't see traffic that was coming toward them. Hanselman had a problem when signs were too big. He wasn't certain the additional signs would help visitors and felt visitors would be looking for the emergency, not other departments. Brown said they set out to limit the number of destinations and each of the signs had information for guidance to the main entrance, emergency or destinations that the public wasn't meant to arrive at like receiving. He said they wanted signage to be effective.

**Opponents:** No were heard.

Hearing closed at 8:27 p.m.

Hanselman didn't see a need for anything that was 30 feet to the top of the sign and felt it would be overwhelming. Franklin had a problem with the 85 foot sign. Hardy didn't have a problem with the request. Patrick didn't have a problem with any wayfinding signage. He had concerns about the giant sign and noted the city hadn't done variances for anything that size. Tokos noted they could leave the hearing open for the applicant to provide a modification on size.

Patrick reopened the hearing at 8:31 p.m.

Brown said what he was hearing was the concern about size. Hanselman said it also could be the height of 30 feet. Brown said it was the height that was on the building and noted the sign was not freestanding. Patrick said the location was at the end of the building. Brown said that he could provide photos to show where the signs would be located. Tokos suggested continuing the hearing.

Hearing closed at 8:38 p.m.

**MOTION** was made by Commissioner Franklin, seconded by Commissioner Hardy, to continue File 3-VAR-18: Sign Variance for Pacific Communities Health District to the September 24, 2018 Planning Commission Meeting. The motion carried unanimously in a voice vote.

**C. File No. 3-Z-18.**

Patrick opened the hearing and closed the hearing at 8:36pm.

**MOTION** was made by Commissioner Hardy, seconded by Commissioner Franklin to continue File 3-Z-18: Zoning Text Amendments to NMC 14.01.020 and 14.03.060 Related to Extended Stay Motels to the September 24, 2018 Planning Commission Meeting. The motion carried unanimously in a voice vote.

7. **New Business.** None were heard.

8. **Unfinished Business.** None were heard.

9. **Director Comments.**

Tokos noted the next meeting would have a public hearing for a geologic report appeal and reviewed the process.

Tokos noted that the City Council approved the renaming of the public places code and the PC wouldn't see hearings for these anymore.

Tokos noted that Karmen Vanderbeck resigned as a Planning Commission Advisory Committee Member and would be supporting the PC as part of other city committees. He noted that the original advisory committee was formed as part of a project and asked the PC if they wanted to continue with a subgroup. Patrick found it useful but thought it was hard to find members. Hanselman wanted thank Vanderbeck and thought the PC should say a thank you for her time. Tokos asked the PC to think about this and they would take it up at the next work session.

Tokos noted that the updated work program showed that the first meeting about VRDS would be held on a coming work session meeting.

10. **Adjournment.** Having no further business, the meeting adjourned at 8:42 p.m.

Respectfully submitted,

  
Sherri Marineau  
Executive Assistant