

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
September 24, 2018

Planning Commissioners Present: Lee Hardy, Jim Patrick, Mike Franklin, Jim Hanselman, and Rod Croteau.

Planning Commissioners Present: Bob Berman, 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, Croteau, Franklin, and Hanselman were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of September 10, 2018.

MOTION was made by Commissioner Franklin, seconded by Commissioner Hardy to approve the Planning Commission work session meeting minutes of September 10, 2018 as presented. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission regular session meeting minutes of September 10, 2018.

MOTION was made by Commissioner Franklin, seconded by Commissioner Hardy to approve the Planning Commission regular session meeting minutes of September 10, 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.

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

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Franklin noted a potential conflict of interest. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard. Patrick gave a statement for public testimony and criteria for continuation of public hearing.

Tokos reviewed his staff report and noted the letter from Pacific Seafood that was distributed to the PC in advance of the hearing. He said that he discussed with the applicant the idea of putting in clarification language in respect to vacation rentals and Bed and Breakfast facilities to clarify that a non-transient hotel/motel use was not multi-family. Multi-family was different because they were permitted in R-3 and R-4 zones but not in a commercial zone. He said the code was clear and there was no reference for multi-family being permissible other than over retail in the C-1, C-2 and C-3 zones.

Patrick asked if it would be a change in use to change from a hotel to a hotel non-transient. Tokos said yes. Hardy asked since it would become non-transient, did landlord tenant legislation pertain. Tokos said he wasn't familiar with landlord tenant laws and couldn't answer. Hardy said if they were using it for non-transient residency and not calling it multi-family, the purpose of the landlord tenant laws was to protect the tenant and the landlord. She thought this should be addressed to make sure the rights were passed on to the non-transient individual staying in such a facility.

Tokos said this was not something that was typically dealt with as part of a land use context and not enforced by the city. Hardy thought it would be worth asking the applicant to clarify this.

Hanselman asked if the non-transient hotels that had 50 percent or more rooms that could be offered for longer stays would be prohibited to rent the 50 percent out from short term stays. Tokos said a portion of it could be used this way. He said that if anyone was looking to build a non-transient hotel, the city would be looking for cooking facilities to be built in to have these amenities available for extended stay. Hanselman said Pacific Seafood would need extended stay five to seven months per year which meant these establishments would not have demand for their rental units for the other months. Tokos said Pacific Seafood would speak to this specifically. He noted the land use parameters were general to cover both.

Proponents: Michael Robinson, Attorney, addressed the PC and introduced Mike MiLiucci, who was present to speak for the applicant. MiLiucci addressed the PC and explained the issues Pacific Seafoods had finding workforce housing. There was a need to house 180 staff members longer than 30 days but they were at a cross roads on how to house their workforce. MiLiucci said they were asking for the text amendment to allow for workforce housing. He said they were open to other solutions if the City had any ideas. MiLiucci said to answer Hardy and Hanselman's questions, Pacific Seafood was still exploring how to do this model and noted they were also looking at nonprofits managing.

Robinson said that Tokos suggestion to add a statement to say that these units were not multi-family dwellings wasn't necessary to add because the code distinguished between multi-family and single family residential. He said that they agreed to the changes that Tokos made on the text amendments made after the PC work session. Robinson said the text amendment they submitted addressed all standards. He noted the Department of Land Use Conservation hadn't commented and thought this said they didn't have concerns. Robinson felt there was sufficient legal basis to find the criteria had been met and recommended that the text amendment be adopted. He said there may be other solutions for affordable housing but they were comfortable with the text amendments.

Opponents: None heard.

Hearing closed at 7:29 p.m.

Hardy said there had been a seasonal housing shortage for decades and this was nothing new. Affordability was a term that had a lot of ramification and noted there was a lot of rent gouging happening. She didn't have a problem with a concept of employer provided housing. Structuring the agreement and the enforcement of the agreements was something she would be curious about. She thought having them managed by a nonprofit would be a good idea. Croteau said the housing shortage for seasonal workers would continue and he was in favor. Franklin thought this would free up hotels for tourists. Hanselman said the applicants had touched on a few points that were valuable and the PC had spent a lot of time trying to bring more housing to the community. He was supportive but said there were more than just fish processors that needed housing. He hoped that the applicant could reach out to other industries to find a solution. Patrick agreed and thought it was a good idea. He liked realigning the percentage figures for hotels and motels so they were both the same. He had no objections to doing a non-transient hotel/motel and said it covered his concerns about when a change in use occurred they would have bring things up to current standards. He felt as long as that was done, this was a useful solution.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy to approve File 3-Z-18: Zoning Text Amendments to NMC 14.01.020 and 14.03.060 Related to Extended Stay Motels. The motion carried unanimously in a voice vote.

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

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Franklin and Patrick noted drive-bys and site visits. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard. Patrick gave a statement for public testimony and criteria for continuation of public hearing.

Tokos gave a staff report and noted the additional information that had submitted to the PC for review.

Proponents: Joe Kunkel, addressed the PC and introduced Matt Brown. He noted that at the last meeting the focus was on the wall sign and thought it didn't seem unusual. Brown addressed the PC and handed out a document to give

the PC an idea of scale and placement of signs. He noted the height of the sign on the building and the visibility of the signs from Highway 101. Brown noted that Pages 7-10 were photo images to represent how the signs would look on the building.

Franklin thought their diagram was wrong on Page 6 that illustrated where the signage was from Highway 101. Brown said he was correct and the area of the building was to the south but noted the principle still applied for visibility. He said the photo images were the best way to see what the visibility would look like. Hanselman asked if it was illuminated. Brown confirmed that it was internally illuminated. He noted that the current sign on the Sam Fit building in Newport had letters that were 60 inches tall. What they were proposing for the hospital was text that was 42 inches tall. Brown covered the examples of projects that were similar in scale.

Brown reviewed the quantity of signs for the street frontage and noted the four signs shown on the handout given to the PC. Their intent was to have the campus as simple to navigate as possible. Franklin asked about Page 28 for an explanation of readability for a letter height of 30 inches. Brown said the intent behind it was to show in ideal conditions what size letters were needed at a minimum to be visible. Franklin said it was noted for "maximum impact" and asked if there would be less impact if they went to a larger letter. Brown said it would be more impact. Patrick asked how many square feet the sign was. Tokos said it was just under 300 square feet. Hanselman asked what the elevation of the bottom of the sign was. Kunkel said 36 feet. Franklin asked if the copy said they recommended the text to be between 10 inches and 30 inches, why would they need a sign that was 42 inches. Brown said it wasn't at a distance that under normal circumstances you wouldn't view from the highway. Franklin didn't think spelling out the hospital name was necessary. Kunkel noted that the Sam Fit sign was on a smaller building and visitors didn't always know there was a hospital in Newport.

Patrick said he didn't see how the applicant was faced with something beyond their control. Kunkel said if the sign was put below the threshold it wouldn't serve the purpose and it seemed natural to do a variance. Patrick didn't think they had met the criteria. He thought it was a practical argument to have the sign where it was needed, but not the size. Tokos said that on Page 28 it talked about maximum readable distance and maximum readable distance for impact. He asked if 30 inches would work because of the table. Kunkel said they would have to take it back to the client to consider. Tokos said the PC could continue the hearing, approve it with an alternate height, or deny it.

Hanselman asked if the applicant would do some mock ups of a shorter name and smaller letters to get an idea of the balance of the sign on the building face. He asked for mock ups of different sizes. Franklin said this could be a waste of their time and if they took it to a text that was 30 inches high, the PC could approve. Tokos said they could approve saying the wall sign could not exceed 30 inches in height. Croteau wasn't opposed to what was presented. Hardy liked it as it was.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy to approve File No. 1-SUB-18/2-VAR-18/3-GP-18 Sign Variance for Pacific Communities Health District as written. Patrick and Franklin were a nay. The motion carried with a majority vote.

C. File No. 1-GP-18-A.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Hardy, Croteau, Franklin, Patrick and Hanselman reported site visits. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard. Patrick gave a statement for public testimony and criteria for continuation of public hearing.

Tokos reviewed the staff report and noted the documents handed out to the PC that were submitted after the packets were posted.

Proponents: Bill Lund addressed the PC. He gave an overview of his history at the coast, purchase of the property, and his geological report. He noted that the County had reported that there was a 60 foot road parallel to Spring Street that was never confirmed. After working with the County they put together a site plan with a solution for building. After the County and City worked out an easement for a safe walking path, instead of the one across his property, Lund had agreed to give a portion of his property up to create a safe walking path. Lund noted that K&A Engineering were the geologists and K&D Engineering was a different firm. He stated that the two geologists were present for questions. Croteau asked if the county road was not in the title. Lund said no and the County hadn't determined that

the road did exist. He noted when it came time to build his home on the site, it would sit low and wouldn't be an obstruction.

Michael Rembolt, K&A Engineering, and Gary Sandstrom, K&D Engineering, addressed the PC. Rembolt explained the difference between a geotechnical engineer and civil engineering geologist. Rembolt said he was in support of the application. He noted the last report done was in 1991 by Hurbert Schlicker. He felt it was the best report on the site and agreed with Schlicker's findings. Rembolt noted the condition of the soil and the recommendations for the build. He said Lund would have to do more borings, but from a geotechnical standpoint they felt the site could be built on safely.

Hardy asked what happened to mudstone when you introduced a water channel to it. Rembolt said in this case the mudstone was hard and tough but could be penetrated. It would take a lot of energy to fracture. Croteau asked what the material was on top of the mudstone. Rembolt said this was the marine terrace and more like a lightly cemented sand. It can be porous and fragile. In this case there was a hazard and why they recommend the system of foundation. Franklin asked what portion of the property was most at risk or unstable. Rembolt said the portion right off of Spring St was the most hazardous. Franklin asked who would design the retaining wall. Rembolt said a civil engineer would do this but his firm would be a part of it. Hanselman noted that there had been fill placed on the property that had been compacted and would be removed. He was concerned that in the rainy season there would be more water traversing down the property and asked if that would affect the mudstone. Rembolt said part of the equation was understanding what they were dealing with. Controlling draining was important and a trench drain system would be utilized so it didn't cause problems for the house. It would be spread out so it wasn't concentrated. Hanselman asked if the review was done over a period of months. Rembolt said no and the evidence spoke to it not being a landslide zone.

Patrick asked about the objections raised to the slope and wanted clarification on what was referenced. Rembolt said that they found that it varied in slopes and when geologists map they measure the dip angle. Sandstrom explained they were talking about the bedding plain, which was at an angle, and the shape of the slope or contact. The contact was rather flat and went up a little because of the waves eroding it and was why there were two different angles. Rembolt said that the bedding plain was the 15 degree angle. Franklin asked if the existing stone that had not slipped from Spring Street up the hill was at the 15 degrees. Sandstrom said he would assume it was the same. There was potential above Spring Street for sliding and noted areas that was sloped and degraded. Franklin asked how much risk they would be putting on the land when they cut in the slope before the engineered retaining wall went in. Sandstrom said there was already a cut put in for the road bed but felt it would support part of the geo tech they wanted to perform to prevent it from happening.

Patrick asked about their comments to do more tests for the houses. Rembolt said the first idea to put the houses was what the plan was for. The road right-of-way forced a move of the duplex to the west. Given the nature of the site, they thought it would be prudent to do more boring to confirm the mudstone contact where the houses were and give good design criteria on how deep they would have to go there. Rembolt noted there would be more work to be done on the building permits with the City as well.

Opponents: Chris Schneller addressed the PC. She read the letter she submitted to the PC for the record and asked that Ruth Wilmoth, who did the peer review, speak to some of the technical.

Ruth Wilmoth, Columbia Geotechnical, addressed the PC. Patrick asked her what the major objections were to the applicant's geological report. Wilmoth said the lack of data that showed that the ground was not currently moving. She said she couldn't see how the slope was moving without a monitor in place to look for movement. Wilmoth felt there needed to be in ground monitoring over a period of a year.

Mona Linstromberg addressed the PC and noted the work that the applicant had already done to the property. She asked the PC to consider what had happened at the Jump Off Joe location. She felt the property in question was in an active slide area and thought K&A had failed to meet the requirements of NMC 14.21. Linstromberg said the application must be denied. Since the notice was not correct, she requested the public hearing be continued to the October 8th PC meeting. If the PC didn't recommend a continuance, she requested the record be held open for one week.

Susan Cooper addressed the PC. She stated she wanted to see a new trail, wanted to see that the height of what would be built didn't impede the residents behind, and to keep things natural.

Betty Rufus addressed the PC and stated that she bought her house with the knowledge that there was beach access. She noted that vacation rentals in the area were advertising that there was beach access and hoped that the access would continue.

Ann Sigleo addressed the PC. She was concerned about the stability of the slopes in the area and failed to understand how the area could be stable. She submitted photos to the PC of the area for the record.

Grover Blackburn addressed the PC. He said he owned a lot close to Mr. Lund's property and had geological records that went back to the 1970's. Blackburn said there had been a report done in 2015 that said there had been minimum movement on this lot. He noted he planned to build on his lot in the coming year. Blackburn said he built a house for someone 200 feet from Jump Off Joes and there hadn't been any record of movement. He said they had a geological report submitted for this build. It was done without borings and was a shallow foundation that hadn't had any problems. Blackburn said that his geological report stated it was okay to build on a shallow foundation on his lot as well. He said you could always find someone with another opinion. Whether there was ground movement or not, there were ways to maximize for safety. He was in favor of Lund's permit.

Conrad Willett addressed the PC. He was concerned for Spring Street integrity when cutting a driveway and for having beach access.

Lisa Lund addressed the PC. She stated the property had been private property all these years. They had asked the person that owned it previously what would happen for liability if someone was hurt on the path. She said she was hearing from the public that they were losing public access but it had never been public access. The Lunds would be giving up a part of their land for the public to gain beach access. She said it wasn't fair to assume the public had access to the beach on private property.

Rob Earle addressed the PC. They have owned the property across from where the development would be. He had watched the erosion over the years and felt what the applicant would be doing would compromise the street. Earle felt the public should be able to use the old Jump Off Joe as their entrance.

Ruth Wilmoth addressed the PC again and said she wasn't for or against the application. She said it was complicated to understand what was happening without data. She explained how the surface was currently and how they didn't understand the slide plain and if it was feasible to do it. Wilmoth was concerned that she didn't even know if the boring would get down deep enough below where they needed to be. She thought the ground water, sliding, and mitigation were where they needed more data. Hanselman said that the City didn't establish what needed to come across on a geological study. He asked if geological surveys should have requirements place that asked for the reports to include a 6-9 month study to give proof of no movement. Wilmoth said it was customary of other jurisdictions to do monitoring.

Gail Willett addressed the PC. She noted that past plat maps showed a historic neighborhood beach access and asked to have that considered. She said she was also concerned about what would happen to Spring Street.

Kyle Luther addressed the PC. He was concerned about who would take responsibility if they developed the property and something happened to it. He asked if the geologist would take responsibility monetarily. Luther agreed that just because people used the path didn't mean it was the public's. He noted that Spring Street was a crowded street with vacation rentals. He was concerned about traffic on Spring Street and what the development meant to traffic.

Rebuttal: Bill Lund and Rembolt addressed the PC. Lund said that living at the coast was a risk. This was why they hired professional engineers that assume liability and could back up their reports. He noted that when they put in the road to do the geological report, the embankment hadn't changed since the road had been moved and he didn't see a lot of movement there. Lund noted he had done the erosion control that the city requested. He took photos over a period of time and didn't see any erosion. Lund noted the springs around the property didn't have much difference over the period of a given time. He noted that Spring Street had only 25 feet of asphalt and didn't fall on his property. Lund reiterated that he would be putting in a safe walking path for anyone in the area. The house he would be building wouldn't impede any other houses.

Rembolt addressed the PC. He said the Jump Off Joe slide was a classic case of sliding on mudstone. He noted that where Lund would be building had a terrace of mudstone that was mostly gone and wasn't the same conditions. Rembolt said the geology in the area was fairly simple and they probed down to the depth where they would have to

have enough information to do their slope stability analysis. They made an intelligent estimate of how far to go and didn't find any issues. Rembolt explained the monitoring that had been discussed were good for deep seeded failures. In this case there wasn't enough overburden that would initiate much of a movement in the slope. The movement on Lund's property was mostly surface movement. He felt the embankment along Spring St in its existing condition, without any help from Lund, didn't have the greatest stability. He felt in terms of utilities and street integrity, it was important to look at it and make sure this development didn't encroach on the street.

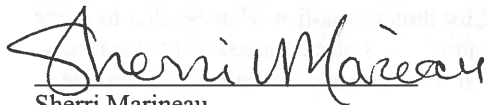
MOTION was made by Commissioner Franklin, seconded by Commissioner Hardy, to continue the public hearing for File 1-GP-18-A: Appeal of Geologic Permit (File 1-GP-18) to the October 8, 2018 Planning Commission meeting to allow an opportunity for those who didn't have a chance to give testimony as a result of the newspaper notice. The motion carried unanimously in a voice vote.

Hanselman asked about a similar situation on 46th Street and Cherokee where the homeowner was building a home and had shut off a historical beach access. He asked if the outcome to require the homeowner to provide access was based on a State law. Tokos didn't recall but said there was a separate proceeding the County initiated after finding the old Jump Off Joe right-of-way and it was a street vacation. Tokos said there was a statute that said that when vacating a right-of-way for beach access, they had to provide a replacement for the access. Lund is open to providing a replacement beach access. There had been a vacation proposal initiated by the County and the process would be moving forward on their own accord.

Croteau noted the Park System Master Plan designated beach access at that point. Tokos said the existing Comprehensive Plan designated beach access at that right-of-way location.

7. **New Business.** None were heard.
8. **Unfinished Business.** Tokos said the South Beach Urban Renewal Plan amendment was approved by the City Council and was now final.
9. **Director Comments.** None were heard.
10. **Adjournment.** Having no further business, the meeting adjourned at 8:42 p.m.

Respectfully submitted,



Sherri Marineau
Executive Assistant