

**City of Newport
Planning Commission Regular Session Minutes
April 22, 2024**

LOCATION: CITY COUNCIL CHAMBERS, NEWPORT CITY HALL 169 SW COAST HIGHWAY NEWPORT	
Time Start: 7:00 P.M.	Time End: 7:57 P.M.

ATTENDANCE LOG/ROLLCALL

COMMISSIONER/ ADVISORY MEMBER	STAFF
Chair Bill Branigan	Derrick Tokos, Community Development Director
Commissioner Bob Berman	Sherri Marineau, Community Development Dept.
Commissioner Jim Hanselman	
Commissioner Gary East	PUBLIC MEMBERS PRESENT
Commissioner Braulio Escobar	Tracey Diehl (by video)
Commissioner John Updike	

AGENDA ITEM	ACTIONS
REGULAR MEETING	
CALL TO ORDER AND ROLL CALL	
a. Roll Call	None.
APPROVAL OF THE MINUTES	
a. Meeting minutes of Regular Session Meeting on April 8, 2024	Motion by Commissioner Hanselman, seconded by Commissioner Berman, to approve the work session meeting minutes of April 8, 2024 as written. Motion carried unanimously in a voice vote.
CITIZEN/PUBLIC COMMENT	The Commission acknowledged the public comment submitted by Mark Arnold concerning the Yaquina Bay Estuary Management Plan.
PUBLIC HEARING	
File No. 1-VAR-24 (Continued): Harbor Freight Sign Variance.	
a. PUBLIC HEARING OPEN	7:04 p.m.
b. STAFF REPORT - DERRICK TOKOS	Tokos reported that Tracey Diehl, representative for the applicant, did not submit any additional testimony. He reviewed the summary of the variance request and standards the Commission needed to consider for the decision. Commissioners asked questions concerning which signs were included in the sign variance, the temporary banner sign placed on the building, the definition of temporary signs, and sign enforcement.

Tracey Diehl reported that she would instruct her clients to remove the temporary signs and obtain permits to install these. She explained that Harbor Freight would like all off the signs to be able to stay in place, but they would be willing to agree to remove the pole sign in order to keep the wall sign. They could also remove the sign on the pole sign and leave the structure without any signage. Berman questioned if they could leave the pole sign structure up without a sign. Tokos reported the city would have to enforce on an abandon sign if this was done.

Commissioners asked for clarification on how the 200 square feet limit was measured. Escobar thought it was a bad show of faith that the pole sign had a temporary sign banner over it even after they were told at the first hearing that it wasn't up to code. Diehl agreed that it was inappropriate to have it without a permit. She thought this was likely due to the person making the decision not relaying the details to the person in charge of the store. Diehl assured the Commission that she would convey to Harbor Freight, and store staff, that the pole sign was in violation and needed to be removed immediately.

Hanselman questioned if the sign on the east side of the building had to legally stay the same with all the words. Diehl reported it was their branding and couldn't be changed. Hanselman asked if there was a legal standing to keep the letters on the sign. Diehl said it was part of their trademark and a trademark lawyer would have to be consulted to see if Harbor Freight could be represented without the bottom tagline.

Udike asked if the applicant considered removing the wall sign and just keeping the pole sign. Diehl confirmed there was a discussion, and they preferred to keep the wall sign and remove the head on the pylon sign. Removing the letters was costly and would be hard to do while the store was open with customers. Diehl thought the most affordable remedy was to keep the wall sign and eliminate the use of the pole sign.

Hanselman asked if there was evidence that the sign contractor read the ordinance and applied the ordinance to the design of the Harbor Freight sign. Diehl reported that her company operates a code research division. She stated that for this project, her company did not perform the code research, they were not involved in the permitting process, and they were not asked to research the codes for this project. Her company was brought into the process after the fact. Diehl explained that she asked if someone did this knowing that the sign was a code violation, and they responded that they didn't do it knowingly. They thought the sign that had been approved by the permit was okay to manufacture, which pulled the trigger for them to build and install the sign. Diehl reminded that they didn't know the sign wasn't allowed until after a site visit had been done and Mr. Tokos indicated that the permit had been issued in error.

Berman asked if the Commission could consider this to be a request for a 41% variance and then deny the pole sign. Tokos explained the variance application submitted didn't involve the pole sign. The applicants didn't apply for the pole sign until the issue had been raised for it.

Escobar asked if there was a way to get the wall sign and pole sign within the parameters. Tokos said they could redesign them to meet the 200 square foot limit. They also had the choice to pursue a legal avenue.

<p>c. PUBLIC COMMENT</p> <p>d. PUBLIC HEARING CLOSED</p> <p>e. COMMISSION DECISION</p>	<p>Diehl reported the wall sign was custom to the building and couldn't be pulled and placed at another store location.</p> <p>None.</p> <p>7:34 p.m.</p> <p>Updike thought that if the Commission denied the request they could discuss ways to figure out how to get the wall sign and pole sign within the 200 square foot limit. He didn't see mitigating circumstances that a variance was in order for this request. East agreed with Updike's comments.</p> <p>Berman thought there could be an argument that there was a special hardship with the extra costs to be involved in denying the permit, but felt the other factors far outweighed the hardship. The store chain had over 1,500 stores and he thought it was a stretch to say that this sign couldn't be repurposed at another location. Berman stated he would deny the variance.</p> <p>Hanselman didn't think Harbor Freight and the sign contractors did their due diligence. He was disappointed with the mistakes that were done by the city and by Harbor Freight when it came to the ordinance. Hanselman thought the wall sign was loud and oversized. His vote would be to deny the variance.</p> <p>Escobar thought the Commission found that the applicant didn't meet the criteria for the variance. He hoped there could be some accommodations they could do for the wall sign and monument sign. Escobar thought the monument sign could be made attractive, and tearing it down would be a waste.</p> <p>Branigan stated he would vote to deny the variance. He thought it was a large variance from what was required. Branigan reminded that the Commission needed consider that if they allowed a large variance this time, they would be setting a precedence for others to follow.</p> <p>Motion was made by Commissioner Escobar, seconded by Commissioner Berman, to deny File No. 1-VAR-24. Motion carried unanimously in a voice vote.</p> <p>Tokos explained that he would bring the final order and findings of fact to the next meeting. Harbor Freight would have to right to appeal the decision to the City Council.</p> <p>Berman asked if the city could waive the cost for a sign permit. Tokos said the cost was minimal and that the applicant had the right to pursue a tort claim.</p>
<p>DIRECTORS COMMENTS</p>	<p>Tokos gave an update on the 2024 Legislative Session summary and the 2024 Land Use Legislation report.</p>

	A discussion ensued regarding the upcoming Yaquina Bay Estuary Management Plan update and review.
NEW BUSINESS Planning Commission Work Program Update.	Tokos gave an update on the City Center Revitalization organization. He also reported that the city engaged a local government law group to assist with addressing SB 1537 for the Governor's housing bill and adjustment provisions. This would be shared with the Commission and City Council, and it would amend the existing ordinance 2222 for the recommended changes to address SB 1537. The legislation would be effective on June 6th.

Submitted by: *Sherri Marineau*

Sherri Marineau, Executive Assistant