

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MARCH 19, 2026
REGULAR MEETING – 6:00 P.M.**

I. CALL TO ORDER - 6:00 p.m.

II. PLEDGE OF ALLEGIANCE – Vice Chair Salene

III. ROLL CALL

PRESENT: Chair Tristan Harris, Vice Chair David Salene, Commissioner Michael Gazzano, Commissioner Greg Reed, Commissioner Mark Rosene

ABSENT: Secretary Jonathan Langford, Commissioner Curtis Ellmore

Staff Present: Community Development Director Jaime Murillo, Acting Deputy Community Development Director Ben Zdeba, City Traffic Engineer Kevin Riley, Assistant City Attorney Yolanda Summerhill, Administrative Assistant Clarivel Rodriguez, Department Assistant Beatriz Avila, Assistant Planner Daniel Kopshever, Associate Planner Oscar Orozco, Newport Beach Police Department Civilian Investigator Wendy Joe

IV. PUBLIC COMMENTS

Charles Schaaf stated that the building at 2424 Southeast Bristol St. was built around the same time as the one in Item No. 2, with driveways onto both Bristol St. and Spruce Ave. , and sign stating that drivers must turn right onto Spruce Ave. He stated that the sign has since been removed, and these right-only turns no longer occur, impacting traffic in his neighborhood.

V. REQUEST FOR CONTINUANCES – None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF March 5, 2026

Recommended Action: Approve and file

Chair Harris opened public comment, and there was none.

In response to Chair Harris' inquiry, Community Development Director Jaime Murillo confirmed receiving written edits from Jim Mosher, adding that staff agrees with his recommendations.

Motion made by Chair Harris and seconded by Vice Chair Salene to approve the meeting minutes of March 5, 2026, with Jim Mosher's edits.

AYES: Gazzano, Harris, Rosene, and Salene

NOES: None

ABSTAIN: Reed

ABSENT: Ellmore, Langford

VII. PUBLIC HEARING ITEMS

**ITEM NO. 2 2350 BRISTOL STREET DRIVEWAY ACCESS (PA2025-0112)
Site Location: 2350 Bristol Street**

Summary:

In accordance with Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the applicant requests a staff approval to allow employee and delivery vehicles to use the existing rear driveway on Zenith Avenue, finding the operation consistent with the original entitlements for the commercial office building, as issued by the Orange County Board of Supervisors on August 20, 1986 (Use Permit No. UP 86-21P and Site Development Permit No. SP 86-52P). Pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC, the Community Development Director is referring this decision to the Planning Commission to allow for additional notice and engagement of the affected surrounding property owners.

Recommended Actions:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Article 18, Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2026-008 denying the Staff Approval filed as PA2025-0112.

Assistant Planner Daniel Kopshever reported that the site in question is between Bristol St. and Zenith Ave. and within the Santa Ana Heights area annexed by the City in 2003. He reported on the site's development in the 1980s when it was under Orange County's jurisdiction, including multiple iterations of the Zenith Ave. driveway, leading to the ultimate decision for a heavy-duty chain locked and keyed for fire department access. He added that Code Enforcement has had four cases stemming from employees using the driveway, causing six site visits by a code enforcement officer since 2024.

Assistant Planner Kopshever reported that the applicant is requesting a Staff Approval because they interpret the existing Use Permit to already allow for employee and delivery vehicle usage of the driveway on Zenith Ave., and that the applicant has cited traffic safety concerns, nearby properties with two driveways, and an inability for delivery vehicles to use the Bristol St. entry. He reported that the applicant stated that a sign at a neighboring property partially obstructs the view of drivers turning onto Bristol St., but a review by the City's Traffic Engineer found that the sign is not an obstruction if the driver inches forward towards the street. He stated that staff is willing to work with the adjacent property owner to relocate the sign. He added that the applicant expressed safety concerns about the landscaping but noted that it is both low and on the applicant's property, making the landscaping their responsibility.

Assistant Planner Kopshever confirmed that two neighboring commercial properties have secondary exits onto Spruce Ave., which is also a residential street but abuts a four-way stop sign intersection. He agreed that the subject property's eight-foot vertical clearance at its Bristol St. entrance is too short for some delivery vehicles, but not all delivery vehicles.

Assistant Planner Kopshever reported that during the application process, staff issued an incomplete letter requesting additional information such as how community concerns would be addressed, how the gate would operate, and daily employee traffic volume through the gate. He stated that the applicant wanted to move forward with an unchanged application, so this hearing was scheduled. He reported that the applicant has since issued a statement saying that the Zenith Ave. gate has been kept open for over 40 years, but he then displayed multiple Google Earth street-level images taken since 2015 where the gate is closed.

Assistant Planner Kopshever reported that staff found conflicts between this request and the

zoning codes, in addition to the Circulation Plan of the Santa Ana Heights Specific Plan, which focuses on reducing residential traffic. He noted that the County's approved plans for the site called for this entrance to be used specifically for emergency access, adding that reserving the driveway for emergency use is Condition of Approval No. 19 in the Use Permit. He added that staff would also have to settle a conflict brought on by the expansion or changes in the operational characteristics of the use if employee access is granted, because the driveway was designated for emergency access only. He recommended adopting a Resolution to deny approval.

In response to Chair Harris' inquiry, all commissioners reported having no ex parte communications on this item.

Chair Harris opened the public hearing.

Chuck Krolkowski, speaking for the applicant, noted that the site has a multi-story and multi-tenant professional office building that has stood for almost 40 years, adding that the Zenith Ave. driveway access issue has existed for its entire time. He noted that the applicant submitted a letter to the City yesterday stating that they do not feel that they need to ask for approval to use the driveway, as it has operated in its present manner for years. He reported that the applicant initially resisted staff's insistence that they must apply to use the driveway for employees and deliveries but ultimately cooperated. He stated that the applicant is making a good-faith effort to make the property function in an optimal and safe manner.

Mr. Krolkowski stated that not allowing Zenith Ave. driveway access will endanger the community. He noted that the original approvals for the site by the County were vague and did not designate the Zenith Ave. driveway as being exclusively for emergency access. He added that the County, in its approval, found that the project would not create any unusual traffic, adding that the City is not allowed to second-guess the County's findings at the time of approval, which included a determination of being consistent with land use regulations. He clarified that Condition of Approval No. 19 required the applicant to submit details for controlled emergency access, but it does not state that the Zenith Ave. driveway is designated for emergency access only, adding that the County could have included this exclusivity in the Conditions of Approval.

Mr. Krolkowski stated that the City cannot apply its regulations to the uses of the property because it was approved by the County before being annexed. He added that the Certificate of Occupancy's approval assumes that all Conditions of Approval were properly satisfied.

Mr. Krolkowski cited the case of Goat Hill Tavern v. City of Costa Mesa as an analogous legal example providing a long-operating business with a vested right to continue its operations. He stated that non-conformity is another legal issue at play in this application, adding that the City's regulations do not apply because the development was approved by the County. He stated that documentation defines Bristol St. as being a high-speed and high-traffic roadway connecting to State Route 73, noting that it narrows from four lanes to two lanes near the property, and adding that there have been many speeding tickets issued and accidents occurring in the area.

Mr. Krolkowski reported that the property has an eight-foot vertical clearance just 13 feet from the Bristol St. sidewalk, forcing delivery trucks that are often 9-11 feet high and 20-25 feet long to extend out into the sidewalk and force other cars looking to enter the property to queue up on Bristol St. just as it is narrowing from four lanes to two. He added that these stopped delivery trucks also obstruct the vision of drivers exiting the property. He stated that this is unsafe and expressed his shock that it is not addressed in the staff report. He noted that these delivery trucks over 8 feet in height cannot go forward, so they must back up onto Bristol St. after making their deliveries, a safety hazard also not mentioned in the staff report.

Mr. Krolikowski noted that the deliveries and high speeds on Bristol St. make the Zenith Ave. driveway a much safer option for employees. He stated that the difference between this property and the one at 2424 Bristol St. mentioned in Mr. Schaaf's previous public comments is that the latter property does not have an eight-foot overhang. He noted that the 2424 Bristol St. property has enough space for a delivery truck to turn around on site and exit back onto Bristol St., and it also has a second driveway onto Spruce Ave.

Mr. Krolikowski reported that the City conducted a traffic study within the past year that contemplates making Spruce Ave. into a cul-de-sac, along with adding speed bumps on Zenith Ave. He noted that many of the same residents speaking against the applicant's access to Zenith Ave. also spoke against the traffic-calming concepts identified in the Study, directly implying that they are less concerned about traffic safety than they claim to be.

Mr. Krolikowski noted that staff presented different iterations of the project during the original approval process, showing bollards in the driveway that were removed at the request of the then-named Orange County Fire Department (OCFD). He added that a chain and/or gate were also discussed with OCFD, but nowhere in the documentation does the County designate the driveway as being for emergency access only.

Mr. Krolikowski reported that in the last year, there have been dozens of automobile accidents along this stretch of Bristol St., with over 100 moving violations ticketed. He encouraged the Commission to make safety its biggest concern regarding the property's use.

Mr. Krolikowski stated that approving staff's recommendation to deny the application would be an unconstitutional taking of property because property owners have access rights to streets they abut, adding that the property was allowed to build two driveways and has been using both for a long time, creating vested rights according to the Goat Hill Tavern case's legal precedents. He reported that City staff would have approved the applicant's request were it only for deliveries, but the request for employee access triggered this hearing.

In response to Chair Harris' inquiries, Mr. Krolikowski reported that, at times, the current and previous property owners would close the Zenith Ave. driveway gate at night. He could not confirm if there is anything in the original documentation from the County stating that occupants, tenants, or users can use the Zenith Ave. driveway freely. He stated that there is no definitive language declaring either emergency access only or open access for all vehicles. He agreed that the documentation is vague and ambiguous. He agreed that the original phrasing included the phrase "controlled emergency access."

Neal Metler, an employee who works at the subject property, requested approval to continue allowing employees and delivery vehicles to use the Zenith Ave. driveway due to the vehicular hazards of Bristol St., noting the many accidents and high speeds of drivers. He added that, in addition to leaving the property, it is also dangerous to enter it from Bristol St. due to concerns of being struck from behind. He addressed the written public comments on the item, noting that many of the authors live significantly far away from the building. He stated that restricting the Zenith Ave. driveway will not end the traffic safety issue, adding that neighbors could also request speed bumps be installed on Zenith Ave.

Mr. Mosher stated that the applicant has raised valid safety concerns, but this Staff Approval is not the proper way to obtain the relief sought. He noted that the documentation about safety measures between the original developer and the County, such as the possibility of using bollards, shows that the driveway was not intended for free access. He stated that it is unlikely that there is proof that the County inspected a free driveway when issuing the Certificate of Occupancy 40 years ago, contrary to the applicant's claim. He reported that the Santa Ana Heights Specific Plan

was created by the County, and the City had to promise not to change it as a condition of annexation, adding that the Specific Plan continues to require Board of Supervisors approval to be amended, making it relevant here. He reported attending the recent City Council meetings where traffic calming measures in Santa Ana Heights were discussed, adding that a reason cited against making Spruce Ave. a cul-de-sac was emergency access.

Chris Laullon, an employee who works at the subject property, stated that he uses both driveways for reasons of practicality and safety. He added that traffic often backs up to exit the property onto Bristol St., a problem that would be further exacerbated if exiting onto Zenith Ave. was not an option. He stated that only having the high-speed Bristol St. access point is impractical for the site's setup, particularly when larger delivery vehicles are also involved. He encouraged allowing access from Zenith Ave., adding that if an accident impacted the Bristol St. driveway, there would be no other access to or from the property.

Mr. Schaaf, who lives two houses away from the building, reported that State Route 73 was not completed when the building was approved, ending at the Irvine Ave./Campus Dr. exit, while Bristol St. was only two lanes then. He stated that neighborhood residents at the time of approval received letters from the County stating that the Zenith Ave. driveway would be only for emergencies, something implied by the draft of the project that included bollards. He stated that the gate has often been opened the past few years, but in the past was closed most of the time with no more than a pedestrian-sized gap. He noted that 2372 Bristol St. only has a single driveway onto Spruce St. and not two as stated by the applicant. He encouraged the City to investigate the right-turn-only exit at 2424 Bristol St. He stated that the subject building's poor design should not impact his neighborhood and encouraged the applicant to purchase a nearby vacant lot to use for additional parking.

Linda Giedt stated that the misuse of the emergency access point puts residents of her neighborhood at risk. She noted that the building has more employees than parking spaces, so the Zenith Ave. gate must be opened to create additional parking. She stated that exiting the building onto Bristol St. is functionally the same as merging onto Bristol St. from the end of Spruce St. She stated that the applicant is not mentioning the driveway's apron, adding that there are no traffic visibility issues from the apron. She noted that neighboring offices at 2372 Bristol St. and 2382 Bristol St. also only have one driveway. She noted that major delivery companies like United Parcel Service (UPS) and Amazon have alternative methods for delivering to buildings with similar low clearances. She stated that the intent of the annexation agreement's plans was to separate the residential neighborhood from adjacent commercial and professional uses. She encouraged the Commission to deny the application.

Mike Smith, neighborhood resident, agreed with Mr. Schaaf's synopsis of gate use history, including how it has been open more often than ever before over the past few years. He stated that Mr. Krolkowski's assessment of the neighborhood's views on speed bumps is wrong, noting that the neighborhood residents' actual reasoning is well known to groups like the City Council. He reported that employees routinely park on Zenith Ave. when there are events at the building, impacting the neighborhood.

Ann Margaret Tudisco, an employee who works in the subject building, stated that there are limited safe gaps to exit the building onto Bristol St. at a dangerous weaving point so close to State Route 73. She stated that the Bristol St. exit is unsafe, unlike the Zenith Ave. driveway.

Liz Coursey, an employee who works in the subject building, expressed concerns about the safety of the building's steady deliveries. She stated that the Zenith Ave. driveway is the safer option for employees like herself who must often go between her employer's two office locations. She added that clients and guests have reported using the Zenith Ave. driveway because they did not feel

safe slowing down to enter off Bristol St., adding that she has encouraged visitors to enter off Zenith Ave. if they feel uncomfortable with Bristol St.

Subject property owner Maryam Parman reported purchasing the building in 2018, clarifying that her law firm has a second office, so not all the employees listed by Ms. Giedt work at the site. She stated that the safety of her staff and the public is important and that the Bristol St. entrance to the building is not safe. She stated that she is often concerned about being rear-ended while slowing down to turn into the Bristol St. driveway, whereas the speeds are far lower at the Zenith St. driveway. She stated that this hearing should put the City on notice that driving conditions on Bristol St. are dangerous.

An unidentified employee who works in the subject building stated that their safety is more important than an argument over an entrance point. She stated that the employees are careful drivers who have families of their own. She stated that slowing down to enter the property from Bristol St. is concerning for the risk it creates of being hit from behind. She stated that the City should be looking at the driving conditions on Bristol St., rather than employees and vendors using a safer entrance.

Kristal Minetzke noted that the Avrek Law Firm, which is housed in the subject building, specializes in personal injury cases, making them experts in traffic accidents. She stated that, if a personal injury law firm says that the Bristol St. driveway is a safety hazard, then it is. She stated that she works at Avrek's Birch St. location and, when visiting the subject building, feels much safer when exiting on Zenith Ave. due to the merging and speeding traffic on Bristol St.

Patricia Teixeira, an employee who works in the subject building, noted that most of the clients who visit their office are injured and can find it extra difficult to enter from the Bristol St. driveway, potentially leading to another accident.

Rhone Safey, an employee of Avrek's Birch St. office, reported that she visits the Bristol St. office daily and learned very quickly that she should only use the Zenith Ave. driveway out of safety concerns after having multiple near-collisions using the Bristol St. driveway. She added that using Zenith Ave. is not only safer for employees but also for other Bristol St. drivers. She reported that she manages the firm's social media accounts and has received direct messages from clients expressing safety concerns when going to the Bristol St. office. She noted how odd this is when they are a personal injury law firm whose clients were often in car accidents.

Sitlaly Livingstone, an employee working at the subject property, reported that trash collection happens by the Zenith Ave. driveway because it would cause logistical complications if it had to occur by the Bristol St. driveway. She pondered what the plan would be in case of an emergency for staff leaving the building with the Zenith Ave. gate closed. She echoed the concerns of her coworkers about the hazards of entering the property from Bristol St.

Monserrat Sandoval, an employee who works at the subject property, expressed safety concerns about the Bristol St. driveway, adding that she exits the property daily through the Zenith Ave. driveway. She requested keeping the Zenith Ave. driveway open.

Reagan Parker, an employee working at the subject property, stated that she uses the Zenith Ave. entrance due to safety concerns. She pondered how staff would exit during an earthquake if the Zenith Ave. entrance were locked and the building collapsed. She expressed concerns about Bristol St. pedestrians as drivers decelerate to enter the building off a high-speed street.

Elizabeth Yost noted that none of the Avrek employees have addressed the neighborhood's safety. She agreed that people regularly speed down Bristol St. She stated that the El Pollo Loco

restaurant at 2232 Bristol St. gets longer vehicular lines than Avrek and assumed that they would have the same concerns about Bristol St. access. She added that the neighborhood likely has more pedestrians to consider than Bristol St. due to its relatively light foot traffic.

Mr. Krolkowski stated that the employees at the subject property agree that Bristol St. is unsafe due to frequent excessive speeding, with the turning movements particularly impacted when larger delivery vehicles are present. He encouraged the Commission to keep both driveways open for safety, adding that there is no indication of speeding in the neighborhood, due in part to having limited space to accelerate before reaching intersections. He stated that the County's documents are vague and do not specifically state that the Zenith Ave. driveway is only to be used for emergency access. He agreed that there are potential pedestrian safety issues with vehicles using the Bristol St. driveway.

Chair Harris closed the public hearing.

Community Development Director Murillo clarified that staff is attempting to uphold the original County approval, which clearly called for controlled access on Zenith Ave. He noted that Condition of Approval No. 3 calls for a change plan to be submitted if there is a change to the precise plan that was approved, adding that this is the equivalent of a City Staff Approval. He reported that staff was open to allowing delivery vehicle access to the Zenith Ave. driveway and requested a delivery vehicle management plan be submitted, but the applicant instead opted to move forward with a request for full access, which is why staff is recommending denial of the application.

Traffic Engineer Kevin Riley stated that the sign on a neighboring Bristol St. property does not impact the applicant's traffic visibility once the driver inches forward towards Bristol St. He stated that there are many gaps in the Bristol St. traffic allowing for a right-turn out of the driveway. He agreed that the low clearance could be problematic for delivery vehicles, creating a safety concern if they must back out of the driveway. He theorized that few delivery vehicles turning into the driveway are unaccustomed to working around it because companies like Federal Express (FedEx) and UPS use drivers on regular routes familiar with the building.

Assistant City Attorney Yolanda Summerhill stated that the Goat Hill Tavern case is in opposition to this hearing, clarifying that the City of Costa Mesa would first grant temporary permits to test how operations worked. She stated that this application does not interfere with Avrek's business operation. She added that the crux of the matter here is reinforcing a Condition of Approval that she does not feel is unconstitutionally vague. She added that the bollards were proposed to help ensure that the Zenith Ave. driveway would only be used for emergency access, even if the word "only" does not appear in the Conditions of Approval. She stated that the business would not be taken away and Avrek can still operate, so there is no economic interest as it relates to vested rights, adding that this matter is about whether ingress and egress are limited to Bristol St. She added that the City did not receive traffic-related information requests from the applicant to fully inform the staff report's findings.

In response to Vice Chair Salene's inquiries, Traffic Engineer Riley confirmed that no formal traffic study was conducted for this application. He confirmed that the applicant did not request a formal traffic study.

In response to Chair Harris' inquiry, Traffic Engineer Riley confirmed that a traffic study would typically be required for a property if there was a change in use or intensity.

Commissioner Rosene stated that he heard some valid safety issues, but the application was never sufficiently completed to allow staff to properly study them. He stated that a more complete application would be beneficial and pondered whether the item should be continued until the

applicant presents a more complete application with better detail on what is being requested. He stated that the County's language relative to the use of the Zenith Ave. driveway is not vague in any way, shape, or form, and questioned why the gate does not have a better locking mechanism. He added that the valid safety concerns are not relevant to this application as it is presented.

In response to Commissioner Rosene's inquiry, Traffic Engineer Riley stated that he is not aware of any high-level capital improvement plans for this stretch of Bristol St.

Commissioner Gazzano agreed with Assistant City Attorney Summerhill that the County's documentation is not vague as it relates to emergency vehicle only restrictions on the Zenith Ave. driveway, citing several examples, including the contemplated inclusion of bollards. He agreed with Commissioner Rosene that the applicant's safety concerns are not relevant to the application as written. He stated that he is inclined to support the application's denial.

Commissioner Reed stated that it can be difficult to mix residential and commercial properties and agreed with Commissioner Rosene's assessment of the application being incomplete. He agreed that the Bristol St. driveway is not ideal, particularly considering the low clearance. He encouraged the applicant to present a plan for safe deliveries and agreed with his peers that the County's intention of the Zenith Ave. driveway being for emergency access only is clear and should be continued. He agreed that the current situation at the Bristol St. driveway is unsafe and that consideration should be given to a proposal to relocate deliveries, but he supports denying the application as it stands.

Chair Harris agreed with his peers and stated that the intent of the County's plans was clear, adding that the final drawing for the Zenith Ave. driveway includes a heavy chain with a fire lock. He agreed that the safety concerns raised by the applicant and public speakers who work for the law firm are valid, adding that he would welcome a different version of this application. He noted that Bristol St. has changed into more of a highway than when the project was approved in the 1980s but added that Zenith Ave. was intended to demarcate the line between commercial and residential with no traffic flow.

Motion made by Chair Harris and seconded by Commissioner Reed to deny the application.

AYES: Gazzano, Harris, Reed, Rosene, and Salene
 NOES: None
 ABSTAIN: None
 ABSENT: Ellmore, Langford

Chair Harris called for a recess at 7:22 p.m. The meeting resumed at 7:26 p.m.

ITEM NO. 3 NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PA2025-0196)

Site Location: Generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street, and Bristol Street North

Summary:

An amendment to Newport Place Planned Community (PC-11) Development Plan to revise the minimum affordability percentage required within the Residential Overlay (Overlay) from 15% to 6% for for-sale residential projects.

Recommended Actions:

1. Conduct a public hearing;
2. Find the Amendment is not subject to the California Environmental Quality Act (CEQA) under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA; and
3. Adopt Resolution No. PC2026-009 recommending approval of a Planned Community Development Planned Amendment to revise the minimum percentage of inclusionary housing applicable to for-sale housing within the Residential Overlay of PC-11 to the City Council PA2025-0196.

Chair Harris recused from the item due to a financial interest with a business partner in the area being studied. Vice Chair Salene ran the meeting in his absence.

Acting Deputy Community Development Director Ben Zdeba reported that the Newport Place Planned Community (PC-11) is in the John Wayne Airport (JWA) area and was established in the 1970s for businesses, office parks, and light industrial use, but those uses have since evolved. He added that housing has also been added to the area, starting with its inclusion in the 2006 Land Use Element update. He noted that a Residential Overlay was added to portions of PC-11 as part of the 4th Cycle of the City's Regional Housing Needs Allocation (RHNA). He added that the overlay required 30% of the housing units to be restricted to lower income for 30 years, but this was amended in 2023 to reduce the percentage to 15% to help the City meet its 6th Cycle RHNA figures, as 30% was viewed as an impediment to housing development. He noted that the 2023 change did not contemplate for-sale housing, only studying rental projects.

Acting Deputy Community Development Director Zdeba reported that the proposed amendment in this item was initiated by the City Council in November 2025 and would reduce inclusionary housing from 15% to 6% for for-sale housing in PC-11. He clarified that rental developments would remain at 15%. He added that the amendment is aligned with the Housing Element's Policy 4A, which affirmatively furthers fair housing by removing governmental constraints. He added that the amendment will also have to be presented to the Airport Land Use Commission (ALUC) prior to being brought to the City Council.

In response to Commissioner Gazzano's inquiry, Acting Deputy Community Development Director Zdeba confirmed that no in-lieu payments are included in this amendment.

In response to Commissioner Rosene's inquiry, Acting Deputy Community Development Director Zdeba clarified that "lower-income" encompasses low- and very-low-income but not moderate-income.

In response to Vice Chair Salene's inquiry, none of the Commissioners disclosed any ex parte communications on this item.

Vice Chair Salene opened the public hearing.

Mr. Mosher clarified that the full documentation defines "lower-income" as being low-income and very-low-income. He referenced a letter in the staff report from the developer of 1401 Quail St., whose project was approved at 15% affordable units, requesting that the percentage be lowered to 7.5%, but also does not expressly state that 15% is unfeasible. He questioned the logic behind lowering the percentage to 6%. He stated that it is unlikely any affordable housing would be developed without an inclusionary requirement, adding that PC-11 is close to JWA and one of Newport Beach's less desirable areas, making it a place where they might expect to generate affordable housing. He expressed concerns that the City will not meet its RHNA requirements.

Vice Chair Salene closed the public hearing.

Commissioner Rosene stated that this is an area of the City where they are trying to focus on affordable housing generation. He stated that the negative impact of 15% to a developer is significant enough to lead to a reduction to 6%. He expressed his support for the amendment.

Commissioner Gazzano recommended including a clause about offering a developer 8% moderate-level income housing units as an option in addition to 6% at the lower income levels. He agreed that clarity could be added to the amendment about the specific affordability levels.

Commissioner Reed agreed with Commissioner Gazzano.

In response to Commissioner Reed's inquiry, Community Development Director Murillo clarified that PC-11's Residential Overlay was created to reduce barriers to the development of lower-income housing during the fourth RHNA cycle. He added that the study included in the staff report was conducted while looking into the feasibility of a potential Citywide inclusionary housing ordinance. He stated that City staff never anticipated the potential of for-sale housing in the JWA area, so it was not included in the original study, with the City's consultants later being asked to amend their original study to consider the feasibility of for-sale housing in PC-11.

Motion made by Commissioner Gazzano and seconded by Commissioner Rosene to approve the amendment with an addition of including the option of a minimum of 8% of for-sale units be designated for moderate-income, while clarifying that the 6% requirement is specifically for low-income and very-low-income.

AYES: Gazzano, Reed, Rosene, and Salene
NOES: None
ABSTAIN: Harris
ABSENT: Ellmore, Langford

Chair Harris returned to the meeting.

**ITEM NO. 4 TOBACCO RETAILER BUSINESS AND CIGAR LOUNGE ORDINANCE
(PA2025-0171)
Site Location: Citywide**

Summary:

Consistent with the City Council's initiation on September 9, 2025, the proposed amendments to Title 5 (Business Licenses and Regulations), and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code serve to establish comprehensive regulations related to permitting and operation for tobacco retail businesses and cigar lounges.

Recommended Actions:

1. Conduct a public hearing;
2. Find the Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and
3. Adopt Resolution No. PC2026-010 recommending the City Council approve the code amendments collectively filed as PA2025-0171 establishing comprehensive regulations for tobacco retailer businesses and cigar lounges.

Associate Planner Oscar Orozco reported that there are public safety concerns over the sale of nitrous oxide and flavored tobacco products, with the City seeing a significant rise in arrests for nitrous oxide in recent years, while flavored tobacco and vaping product usage rates are rising among youth. He reported that the Newport Beach Police Department (NBPD) has been involved in enforcement actions around two Corona del Mar vendors that were subsequently closed for selling prohibited products.

Associate Planner Orozco reported that the City Council passed a temporary moratorium on the establishment of any new tobacco retail businesses in September 2025, initiated Newport Beach Municipal Code (NBMC) amendments to create regulations for these businesses and permanently banned the sale of flavored tobacco products along with nitrous oxide at the request of the NBPD. He added that the Council has since extended this moratorium through September to allow staff time to create more solidified NBMC amendments.

Associate Planner Orozco reported that the NBMC does not have a category for these stores, such as “tobacco retailer” or “smoke shop”, so they are treated as general retailers, which are permitted in most commercial zones. He added that cigar lounges are prohibited Citywide due to the current definitions. He reported that staff is proposing amending Title 5 of the NBMC to establish a permitting process for tobacco retailers and amending Title 20 to create new definitions and establish standards for tobacco retailer businesses and cigar lounges. He added that the goal of these amendments is to create comprehensive, enforceable standards while protecting public safety and preventing youth access.

Associate Planner Orozco presented the proposed definition of a tobacco retailer, noting that it excludes businesses such as grocery stores and convenience stores to help differentiate businesses that happen to sell tobacco products from those the regulations are intended to focus on that primarily sell tobacco products. He added that if a business is identified as a tobacco retailer by this definition, then it must obtain a Tobacco Retailer Permit (TRP) from the NBPD. He added that these permits would have an annual renewal requirement, be non-transferable, and retailers must comply with City, State, and federal laws. He added that a new separation requirement would not allow a tobacco retailer within 1,000 feet of another one, within 500 feet of uses like a school, park, or religious institution, or within 500 feet of residential use or zoning districts. He reported on operational standards, including no sales between midnight and 6:00 a.m., and a list of prohibited products, including nitrous oxide and flavored tobacco.

Associate Planner Orozco reported that there will be exceptions made for Newport Beach’s three existing non-confirming retailers, adding that they must obtain a TRP within 60 days of the Ordinance going into effect, maintain continuous operation, do not substantially change ownership and operations, or violate applicable laws.

Associate Planner Orozco stated that cigar lounges are currently prohibited, but the City Council has made a clear distinction for the sale of premium cigars, adding that the NBPD is in support, as they are distinct from smoke shops and issues are not anticipated. He noted that staff has received applications for cigar lounges over the past few years and has identified areas where ones could be opened within select portions of the JWA area and Fashion Island. He added that cigar lounges would have to comply with operational standards, including only allowing patrons who are at least 21 years of age, installing fire sprinklers, providing adequate ventilation, complying with smoke-free workplace rules, prohibiting alcohol sales, and not being within 1,000 feet of another cigar lounge.

Associate Planner Orozco reported that staff’s only proposed revisions to the Ordinance are to include hotels and motels in the exceptions section of the definition of a tobacco retailer.

Commissioner Rosene stated that the non-conforming and excluded uses are the interesting parts of this item, noting that Tanar's Tobacco was approved as a convenience store.

In response to Commissioner Rosene's inquiry, Acting Deputy Community Development Director Zdeba stated that staff feels Tanar's is not truly a convenience store. He clarified that they do not have a TRP because those will not exist until this Ordinance is approved by the City Council, but that they would need a TRP in the future if the Ordinance is approved. He confirmed that Tanar's and Piece of Mind Smoke Shop will be permitted to operate despite being less than 1,000 feet apart because they are already existing businesses.

Commissioner Rosene encouraged staff to consider removing convenience stores from the exempted businesses list.

NBPD Civilian Investigator Wendy Joe stated that most convenience stores that sell tobacco products also have Alcoholic Beverage Control (ABC) licenses, whereas this Ordinance is targeting smoke shops that do not sell alcohol and are not governed by any other licenses. She added that, when recently inspecting Tanar's, she found that they had a small refrigerator of sodas, but those were the only beverages.

In response to Commissioner Rosene's inquiry, Civilian Investigator Joe confirmed that whether a store has an ABC license or not is clarified within the Ordinance.

In response to Commissioner Gazzano's inquiries, Associate Planner Orozco confirmed that any existing operator will have to obtain a TRP, adding that the TRP will have an exception for establishments that also require an ABC license. He added that the ABC license provides more means and mechanisms of enforcement to ensure that a convenience store selling alcohol complies with its sales limitations. He clarified that the sale of flavored tobacco and nitrous oxide would be prohibited Citywide, even if a store has an ABC license. Civilian Investigator Joe added that flavored tobacco is covered by State law, but the City's Ordinance provides more local controls. She clarified that the sale of flavored tobacco to an adult is more of an administrative violation through the California Department of Public Health, and this will allow the City to create a higher enforcement standard. She clarified that the age restriction for smoking lounges is 21 years of age and not 18 because of smoking lounges with hashish, noting that hashish is not considered flavored tobacco. Assistant City Attorney Summerhill reported that the legal age to purchase and possess tobacco products in California has recently been changed to 21.

In response to Chair Harris' inquiry, Civilian Investigator Joe clarified that an ABC license requires that you cannot sell drug paraphernalia, such as glass pipes. She added that there are no current mechanisms for the enforcement of things like this with a smoke shop that does not sell alcohol. She added that the TRP is an attempt to bridge the gap.

In response to Vice Chair Salene's inquiries, Associate Planner Orozco stated that when the three existing smoke shops apply for a TRP, the NBPD will confirm that they do not have a history of violations before issuing a TRP. He confirmed that if the three stores have been rule-compliant, they would be issued a TRP.

In response to Chair Harris' inquiry, Associate Planner Orozco confirmed that staff will notify all known existing retailers prior to the City Council's public hearing about the Ordinance.

In response to Chair Harris' inquiry, none of the Commissioners disclosed any ex parte communications about this item, other than Chair Harris, who disclosed speaking with a potential tobacco retail owner.

Chair Harris opened the public hearing.

Mr. Mosher noted that his comments on this item were not submitted in writing like his other comments. He stated that the concept of tobacco “retailing” in proposed NBMC Section 5.55.15(A) is insufficiently defined. He added that proposed NBMC Section 5.55.15(D)(3) is unclear, noting the potential for confusing applications in mixed-use and housing overlay zones. He compared the discussion to the City Council’s restrictions on tattoo parlors and stated that maps comparable to the ones presented at that discussion would be beneficial. He recommended that more specificity about the length of time and types of violations be added to proposed NBMC Section 5.55.15(E)(5), pondering if something unrelated to tobacco sales, like a plumbing violation, could be counted here. He recommended inserting language into proposed NBMC Section 20.70.020(T) as a drug store selling nicotine patches could fit the definition as presented because they sell a “tobacco-related item.” He stated that the focal point of the definition should be that the primary business of a smoke shop is selling tobacco.

Chair Harris closed the public hearing.

Vice Chair Salene agreed with Mr. Mosher on the overly broad nature of the requirement that a retailer have no violations in proposed NBMC Section 5.55.15(E)(5).

In response to Vice Chair Salene’s inquiry, Assistant City Attorney Summerhill agreed that proposed NBMC Section 5.55.15(E)(5) can be tightened up prior to its City Council presentation, along with adding other editorial comments made by Mr. Mosher and the Commission.

Chair Harris stated that he has similar thoughts to Mr. Mosher about needing clarity in proposed NBMC Section 5.55.15(D)(3) relative to the application of these regulations in mixed-use and housing overlay zones.

Motion made by Chair Harris and seconded by Vice Chair Salene to approve the item as revised by staff.

AYES: Gazzano, Harris, Reed, Rosene, and Salene
NOES: None
ABSTAIN: None
ABSENT: Ellmore, Langford

VIII. STUDY SESSION

ITEM NO. 5 STUDY SESSION ON THE NEWPORT BEACH 2050 GENERAL PLAN (PA2022-080) Site Location: Citywide

Summary:

City staff will present relevant background and an overview of the status of the comprehensive General Plan Update with special focus on introducing the Final Draft GPUSC/GPAC General Plan Update, also referred to as the “Newport Beach 2050 General Plan.” This is a study session item only with no action required. It is anticipated the Planning Commission will review and consider recommending the Newport Beach 2050 General Plan for City Council approval at its meeting on April 23, 2026.

Recommended Actions:

1. Discuss and provide input or direction to staff.

Acting Deputy Community Development Director Zdeba stated that this Study Session is intended to serve as a primer on what the Commission will be asked to formally approve at its April 23rd meeting as it reviews the Draft Land Use Element and Draft Safety Element. He reported on the progress of the community member-led comprehensive General Plan update and the community outreach efforts that contributed to the draft policies. He reported that in the current phase, staff is talking about the relevant elements to City boards, commissions, and committees for an approval recommendation to the City Council, adding that the Board of Library Trustees, City Arts Commission, Harbor Commission, and Parks, Beaches & Recreation Commission have already voiced their approval. He added that the Water Quality/Coastal Tidelands Committee will discuss its relevant elements on April 2, 2026.

Acting Deputy Community Development Director Zdeba reported that the Draft General Plan begins with an opening vision statement with a focus on the year 2050, providing guiding values to help with future decision-making. He provided a brief overview of the draft elements that are not part of the Commission's purview.

Acting Deputy Community Development Director Zdeba reported that the Safety Element and Land Use Element are both State-mandated. He highlighted the General Plan Advisory Committee's (GPAC) robust discussion of evacuation routes following the Palisades Fire as it relates to the Draft Safety Element, and the Draft Land Use Element's shift to allow for staff-administered updates to tables for better transparency. He reported that an Implementation Program is being created to ensure that staff is implementing the General Plan in a timely manner. He presented a display of how the General Plan will be presented online with searchable features and weblinks as opposed to a static document as it is presented today.

Acting Deputy Community Development Director Zdeba reported on the next steps in the General Plan approval process. He added that he attended the ALUC meeting earlier today, with that body finding it inconsistent with the 2008 Airport Environs Land Use Plan (AELUP) due to noise contour issues, so the City Council will be asked to override the ALUC when approving the General Plan.

Chair Harris noted that one of the first goals of the Draft Land Use Element is to control density levels, lamenting that this can be difficult due to the impacts of RHNA. He stated that it will be interesting to see how it evolves, along with how the City regulates some of the anomaly areas.

In response to Chair Harris' inquiry, Acting Deputy Community Development Director Zdeba confirmed that he did not forget Commissioner Rosene's comments about making the tables more legible when the General Plan updates were last discussed by the Commission. He added that, at the April 23, 2026 meeting, staff intends to have a table showing revised policies, new policies, and omitted policies for the entire General Plan in a clear and easy format.

Chair Harris opened public hearing.

Mr. Mosher noted that all 28 members of the General Plan Advisory Committee should be recognized and not just the 24 members who completed the job after the City Council reduced its size. He added that there is an introduction document not included here that is important because it will contain a disclaimer about how the General Plan should be interpreted as an aspirational document. He added that the General Plan also includes a glossary defining the meaning of terms that may not mean exactly what each user might think they mean. He stated that these defined words should be highlighted in the final online version.

Chair Harris closed public hearing.

Chair Harris closed the Study Session.

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION - None

ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

Community Development Director Murillo reported that the next meeting will be a Special Meeting on April 2, 2026 featuring public hearings about the 1500 Quail residences and a Conditional Use Permit application for a restaurant. He added that, in response to a recent request by Secretary Langford, staff intends to have a discussion item on Homeowners Association limitations due to recent State law changes. He reported receiving two appeals to the City Council on the 300 Newport Center Dr. condominium project that was approved by the Commission at the last meeting.

Commissioner Rosene requested that staff investigate Ridge Park Road east of the Ziani community, where there is no curbside parking permitted on the eastbound side of the street, but there should be for the benefit of Coastal Peak Park users.

Community Development Director Murillo confirmed that staff can investigate this and provide an update at the next meeting.

ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES - None

X. ADJOURNMENT – With no further business, Chair Harris adjourned the meeting at 8:33 p.m.

The agenda for the March 19, 2026, Planning Commission meeting was posted on Thursday, March 12, 2026, at 5:42 p.m., on the digital display board and a physical copy posted inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City's website on Thursday, March 12, 2026, at 5:07 p.m.

Tristan Harris, Chair

Jonathan Langford, Secretary