

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**July 22, 2019**

**Planning Commissioners Present:** Lee Hardy, Bob Berman, and Jim Patrick.

**Planning Commissioners Present by Phone:** Mike Franklin, and Bill Branigan.

**Planning Commissioners Absent:** Jim Hanselman (*excused*).

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; Associate Planner, Rachel Cotton; 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 7:02 p.m. On roll call, Commissioners Hardy, Berman, Franklin, Branigan, and Patrick were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of July 8, 2019.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Hardy to approve the Planning Commission work and regular session meeting minutes of July 8, 2019 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **Deliberations and Possible Recommendation on File No. 1-Z-19: NZO Amendments to NMC Chapter 14.21 Geologic Hazards Overlay.**

Berman asked if there was any additional testimony during the open record period. Tokos reported he received one public comment. This was an email submitted by Mona Linstromberg that was included in the meeting packet.

Hardy strongly felt that a site visit should be required as part of a peer review. She felt without the consideration of the actual data, a peer review was worthless. Berman said he tended to support all of the changes, including a site visit, because he felt it was critical that the site visits happen. Patrick supported all of the recommendations except requiring a site visit. He thought the peer reviewer would take the engineer's word for it and felt a site visit was asking them to do another inspection. Hardy rebutted that what they were asking for was two things, a review and a site visit. Patrick felt it was asking the peer reviewer to create their own data. Hardy argued that it would be observing the area with another pair of eyes, not creating any data. Patrick didn't agree. Franklin agreed with all the recommendations and with what Hardy said about being in favor of a site visit. Branigan agreed with Hardy and Linstromberg's observations.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Hardy to modify File No. 1-Z-19 to include a requirement for a site visit by the peer reviewer. The motion carried in a voice vote. Patrick as a nay.

**MOTION** was made by Commissioner Hardy, seconded by Commissioner Berman to approve a recommendation to the City Council for File No. 1-Z-19 with recommended amendments. The motion carried unanimously in a voice vote.

**5. Public Hearings.** At 7:09 p.m. Chair Patrick opened the public hearing portion of the meeting.

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. None were heard. 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. 2-Z-19 (Continuation).**

Tokos gave his staff report. He introduced Associate Planner, Rachel Cotton to the Commission to provide an overview of the permitting process.

Cotton reviewed the materials that established the permitting process through the right-of-way permit intake process and allowed for another category for trees. She highlighted that staff received a suggestion that a removal of a tree to enhance a view should be one of the reasons someone could provide when applying. Cotton explained the two categories used to determine it permits would go through the Public Works Department as a staff review or through Parks and Rec Committee for a decision. The two new additions to the plan were that a tree being removed for a driveway would be a staff review and a tree being removed to enhance a view was a Parks and Rec Committee review. There was also some nuisance language added saying if the City determined it would like to take out a tree on public property that is proposed as a safety hazard, they could exercise this decision.

Berman asked what "growth habit" meant under Section 9.10.035, Item A.4. Cotton said it meant the way the tree was growing and was stock language. Berman asked why B.1, A and B wasn't something that should be the discretion of the Public Works department when it came to water and sewer lines. Cotton explained that sidewalks were the responsibility of adjacent property owners. If the tree was encroaching on the sewer or water lines on private property, the public would apply for a permit for removal. If it was public lines, Public Works would take care of it. Berman was concerned that Public Works couldn't just take down a tree if there was a tree encroaching. Cotton explained this was a larger decision that could be made outside of the permitting process. Public Works could take out any trees that have to do with public improvements. Berman was concerned Public Works would be limited. Cotton noted that Section 9.10.130, Item C covered this and she thought it might be redundant to also say it in the other sections. Patrick asked about power drops of lines that ran through trees. He questioned if it was the public's responsibility to take care of electrical lines dropped from the CLPUD pole. Cotton said Item B said it covered utilities separately and this was more about the property owner addressing things on their own.

She asked if the Commission had any changes they wanted to recommend. Berman was concerned that Section 9.10.035 "Tree Removal Requests and Authority" started out saying a private property owner may request permission and it talked about the city going ahead and doing it. Cotton explained that he was reading it wrong. City staff would make the decision on anything under Item A and the Parks and Rec Committee would make the decisions on anything under Item B. Tokos suggested that Item B.1 be changed to say that what was being referenced was private water and sewer laterals. Branigan asked if under Item B would the whole Parks and Rec Committee served as the Tree Board or could there be a subset. Cotton said the Parks and Rec Committee and Tree Board were the same group. Branigan asked if they would need to have a formal meeting as a Tree Board. Cotton explained they would, and the Parks and Rec Committee would be determining the process to address Tree Board items.

Berman was concerned that Section 9.10.035, Item C said the decision would be final in 10 business days and Section 9.10.037, Item A said 10 calendar days for appeals. Cotton said that was done on purpose to

make sure that the decision period wasn't longer than the appeal deadline. It provided a buffer and couldn't be the same time period as the decision. Berman didn't think the two time periods should be different. Tokos explained that they wouldn't want to be in a position that an appeal came in at 5 p.m. on a Friday, and the person took down a tree without being noticed that there had been an appeal over the weekend.

Hardy felt that Section 9.10.035, Items B.2, A and B, were meaningless, subjective criteria as written. She thought they needed to be clarified. Cotton explained the intent of the language was to say it was a tree that was noticeable within a neighborhood. She didn't know how to make that clear apart from having a certain size the tree had to be larger than and what size it would be limited to. Cotton reminded that it wasn't saying it "will" warrant denial, it was saying it "may" warrant denial by the Tree Board. Hardy was concerned they were giving the Tree Board an opportunity to exercise their subjective value judgements when making a public opinion. Cotton explained this was just one criteria for the Tree Board to look at and it was not binding.

Patrick asked what a "forb" was on Section 9.10.130, Item A.3. Cotton explained it was a classification of plant like a shrub.

**Proponents:** Mona Linstromberg addressed the Commission. She referenced Geological Permit File 8-GP-18 for three tax lots on north Spring Street. Linstromberg asked how the clear cuts that were happening on these properties would be dealt with differently under this new ordinance. Tokos explained that only the undeveloped portions of the road right-of-way of Spring Street would be relevant to this ordinance. Street widening, parking areas installations, and driveways improvements would all be under the permissible activities under the road right-of-way. If a tree removal was necessary so those improvements could happen they would expect to see a right-of-way approval under these rules. If it was an area that was planned and they wanted to take out trees, some of the other questions would come up. Linstromberg said what she was hearing that under the new ordinance they would be given more consideration under the terms of a review of the trees that were coming down not being integral with the property. Tokos thought this was a fair way to frame it. Cotton reminded that anything that staff reviewed had a requirement for a replacement of a certain amount of trees for the ones that were removed.

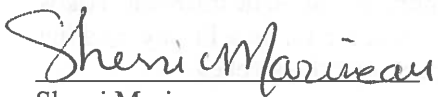
Hearing closed at 7:38 pm.

Branigan commended Cotton on a job well done. There were a couple of modifications that needed to be made that were noted by Berman and Hardy, but Branigan felt this was acceptable to pass on the the City Council. Franklin supported the changes discussed at the meeting and thought it should go forth. Berman was in general support. He wanted the definition for Public Trees to not say "DBH" because this was a number representing a diameter. He thought it should be BH for the breast height, not DBH. Berman commended Cotton on doing a great job. Hardy had no comment. Patrick didn't have any concerns and thought the plan did a good job of nailing down what they wanted to do. He thought the Tree Plan may have to be reviewed again in a couple of years.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Branigan to approve File No. 2-Z-19 and forward a favorable recommendation to the City Council. The motion carried in a voice vote. Hardy abstained.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 7:40 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant