

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
1	What began this process?	One of the City Council's goals is to complete a comprehensive update to the Newport Zoning Code this fiscal year. The work has been ongoing for several years. Problems with the existing Geologic Hazards section include outdated mapping that is no longer accurate, language requiring geologic permits in areas of weak foundation soils that is vague and unenforcable, lack of provisions addressing development on beaches and foredunes which is required by state law, overly strict language that requires geologic permits for any vegetation removal or work requiring any building permits, inadequate provisions for ensuring erosion control measures are used during development, and no process to ensure recommendations made by an engineering geologist are followed. The city may be entering periodic review with the state in the next couple of years, and some of these issues may be required to be addressed at that time, so work has been coordinated with state staff to address them now.
2	Seems like an over-reaction.	Considerable feedback has been provided that proposed language, particularly that which limits the type of development that can occur in high risk areas, would unduly impact the value of those properties. A March 1st version of the proposed revisions includes other policy options that would influence what can be built in these areas to a lesser degree.
3	Why did the City pick the geologic hazards section? Why not take a step back?	The geologic hazard section was picked because it was one of the few remaining that had not been addressed as part of the comprehensive zoning code update. Considering public feedback, the process is being slowed down to ensure ample opportunity for the public to review the proposed changes and provide feedback on how they can be improved.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
Clarification Discussion		
4	Clarify where these rules apply.	The rules would apply to areas identified as being at risk of bluff or dune backed shoreline erosion or landslides as identified in a 2004 report prepared by the Oregon Department of Geology and Mineral Industries (DOGAMI) and associated maps.
5	Will the City require a liability waiver for low risk areas?	A revised draft includes language that would require the waiver in low risk areas only if a certified engineering geologist determines that a full geologic report is warranted based upon their observations of the site and construction plans.
6	For the landslide hazards, make sure that hazard risk zones are clear.	We will work to produce maps that are as clear as possible. A revised draft will also include language to allow an engineering geologist to interpret which hazard zone applies if it is unclear and to make adjustment to map boundaries where site specific conditions warrant such changes.
7	Discussion of possible input on maps.	Comment noted.
8	Clarify zone boundaries for colorblind folks.	The only version of the maps that is available at the moment is in color, however, city staff has provided a large number of customized maps to constituents that include text descriptions of hazard areas for their particular property and is happy to assist anyone to ensure there is no confusion.
9	Clarify language regarding nonconforming use provisions for replacement of structures due to fire or land movement.	A revised draft includes clarifying language.
10	Regarding exemptions for repairs, what is the definition of a structural alteration?	A structural alteration is a change to the exterior appearance of a structure. A revised draft notes that alterations within the existing building footprint that do not add habitable floor area are exempt from geologic permitting requirements.
11	A lot of things need to be clarified.	A revised draft includes a number of clarifications.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
12	A cross-reference should be made to the nonconforming use section.	The proposed changes include such a cross reference.
13	A lot of stuff has been totally overlooked. This needs an overhaul.	A revised draft has been prepared addressing feedback received since the public workshop, and there will be opportunities to further refine the draft as it moves through the hearings process with the Planning Commission and City Council.
14	What other changes are being made. I want to see them.	Revisions the City is considering to its zoning code go before the Planning Commission and City Council. Copies of meeting agendas are available on the city website. In the event a proposed change could restrict use of private property then the city is required to provide mail notice to the affected property owners.

Time Line Discussion

15	This amendment is not ready for the Planning Commission.	A revised draft has been prepared for the March 8th Planning Commission meeting. It will be available on March 1st.
16	Discussion should continue beyond March 8th. No one present thought this was an adequate time frame. Don't rush!	The Planning Commission has agreed to hold a hearing on March 8th, but will not make a recommendation on that date. City staff will present the new draft, and there will be an opportunity for public testimony. The Commission will discuss next steps prior to the close of the hearing.
17	Can we slow this down? A client isn't here, and they need a fair chance. This is moving too fast.	The process will be deliberate with ample opportunities for public involvement.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
18	How can this be put off? I can't come next Monday.	There will be several opportunities to provide input into the process. Multiple public hearings will be held with the Planning Commission and City Council. As changes are made to the proposed Geologic Hazards update, they will be posted to the City website and will be available at the Planning office for review. Those who cannot attend hearings can submit comments in writing.
19	Can the Planning Commission do other workshops?	Yes. The Planning Commission can request that staff hold as many public workshops as they feel appropriate. They can also hold as many meetings as they believe are necessary.
20	No compelling reason. There is no need to rush. Need slower pace.	Comment noted.
21	Want Staff recommendation to slow down.	Comment noted.
22	Should we wait for new LIDAR data?	The Planning Commission discussed this at a work session attended by DOGAMI staff. The 2004 maps are the best available information and the first to identify areas by relative risk. With the LIDAR data, the state will refine the boundaries of what they have already mapped. DOGAMI staff does not expect that there will be dramatic changes, and the basic structure of the maps will remain the same. The 2004 maps are a substantial improvement over the 1977 maps, and restructuring the city code to use the DOGAMI maps now will make it easier to update them in the future when the LIDAR based mapping is available.

Manufactured Home Discussion

23	What is the logic of having structures that are readily movable like manufactured homes?	It ensures that structures can be taken off of a property in a timely manner at reasonable cost.
24	Manufactured homes are movable to the site; not away from the site. They are tied to a concrete slab; and the moving equipment has to be brought back.	Manufactured homes can be disassembled and removed from a property. For this to happen, moving equipment would have to be brought back to the property.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
25	Financing manufactured homes is getting difficult.	Comment noted.
26	A manufactured home is a problem in high winds.	Manufactured dwellings can be constructed to withstand high winds.
27	Do manufactured homes have an insurance issue?	Manufactured dwellings can be insured.
28	Isn't there a state law that once a manufactured home is placed, it can't be moved?	No, there is not a state law that prohibits removal of a manufactured dwelling.
29	We don't want to put a manufactured home on our lot.	A revised draft includes policy options that do not limit construction in active hazard areas to manufactured dwellings.
30	What about the Nye Beach overlay that doesn't allow manufactured homes?	None of the policy options in the revised draft limit construction to only manufactured dwellings.
31	Manufactured homes are an issue. It is a scary thing.	Comment noted.
32	CC&Rs in some areas don't allow manufactured homes.	Comment noted.
33	Why not allow property owners to remove their dwelling of any type in any risk zone? Maybe require bonding.	Property owners are free to remove structures if they feel it is necessary. Not everyone can afford to do so. Bonding is not being pursued because such an approach is only effective if there is a finite date within which the bond is to be acted upon or released. Since nobody can predict when slope failure will occur on a property, the city and the bonding agency would be faced with holding bonds for an unspecified period of time, which would not be manageable.

General Discussion

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
34	If you have property owners and professionals that are willing to take the risks, why not let them.	Not everyone can afford to take preventative action or clean up after a catastrophic loss of a structure. The city has had to step in to clean up sites in the past and will be faced with doing the same in the future. Options in the revised draft include fixed size limitations for construction in active and high risk areas to increase the likelihood that people will be able to remove them in the event of slope failure, a requirement that construction techniques be used to facilitate future removal (with no limitation on size), or simply a suggestion that construction techniques be used that will facilitate future removal in active or high risk areas. Ultimately, the Planning Commission and City Council will need to decide which, if any, of these options is appropriate.
35	Let property owner accept the risk.	Comment noted.
36	If your home slid, your easement may have slid as well.	Comment noted.
37	If a house slides, make it a Fire Department project.	Comment noted.
38	What about land divisions in order to situate houses out of high risk zones?	A provision in the proposed changes requires that lots in new land divisions include area so that new homes can be built outside of high risk zones. It also requires that public infrastructure in the land division be located outside of high risk areas.
39	Consider the impact to others that are adjacent. You have not considered that.	To the extent this concern is about impacts to the value of existing properties that might be associated with a restriction of construction in active hazard areas to manufactured structures, that proposal is not in the revised draft.
40	What is on the horizon for the UGB?	The City is not considering any changes to the UGB at this time.
41	There could be a possible maintenance issue. If people can't sell their property, they may not maintain them.	Comment noted.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
42	When you have excavation, it might affect the surrounding property. It's a larger issue than just the property. Do they need an excavation permit?	The proposed changes will for the first time require erosion control measures be used during the course of construction in areas subject to a geologic permit. The city does not have a "grading permit" or "excavation permit" requirement that would apply outside of geologically hazardous areas.
43	Don't restrict the size or quality of the home.	A revised draft includes policy options that do not apply a blanket restriction on the size of homes in active or high risk areas.
44	Is there an opinion on whether this code is a "taking" as defined in Federal takings cases?	The City Attorney has not prepared an opinion on this issue.
45	How does or doesn't this proposal affect rip rap.	Options for using rip rap along the coastline are limited, and subject to approval of the Oregon Park and Recreation Department. This is not changed with this proposal. The proposal does change the circumstances that would trigger a geologic permit. The current code requires a geologic permit if the nature of the work requires a building permit (i.e. it is over four (4) feet in height and sloped in excess of 60%). The proposed code requires a geologic permit if excavations exceed two (2) feet or more than 25 cubic yards of material is placed.
46	How do we operate now until a change is made to the code?	We apply the existing geologic hazards code. That code was adopted in 1982 (and last amended in 1991) and maps that it references were prepared in 1977.
47	How far south does this affect?	The southernmost properties affected by the DOGAMI maps are those that are within the City, along the coastline south of the airport adjacent to the Wolf Tree destination resort site.
48	Is there hope that the City would consider moving away from the maps and the code?	This is a public process and the Planning Commission and City Council are under no obligation to adopt the new maps and proposed changes if they believe it is not in the public interest to do so.
49	It's disconcerting that no PC members are here.	Comment noted.

ISSUES RAISED AT 2/17/10 PUBLIC WORKSHOP ON GEOLOGIC HAZARDS CODE UPDATES

Number	Comment	Action Taken
50	Was there feedback from Geologic firms?	Yes, feedback from three firms to date, along with DOGAMI geologists.
51	Use Bandon as an example and work with them.	The State Department of Land Conservation and Development (DLCD) is providing technical assistance to Bandon and has prepared draft changes for them. Newport is coordinating with the same DLCD staff.
52	This is not a blanket thing. Do a site specific process. Can't address all with zoning.	A revised draft includes language allowing a certified engineering geologist, retained by a property owner, to make site specific adjustments to the risk designations shown on the DOGAMI maps, when warranted.
53	Concerned that this is discouraging long-range planning. Government is always looking over our shoulder and changing what we can do.	Comment noted.
54	Question on slope limitation.	A provision in the draft revisions identified land with slopes over 25% as being geologic hazard areas. That language was inadvertently left in from a prior draft. The Planning Commission had discussed the language at a prior work session and decided not to use it. The language has been deleted.
55	Homes now in red zone. Banks won't finance as nonconforming use. Look at the financial impacts. You are hurting people.	Comment noted. Language in the proposal, regarding nonconforming uses, has been revised to make it clear that existing structures can be replaced in the event of casualty loss. That is what insurance companies look for, when insuring nonconforming structures.