PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, July 08, 2019 - 7:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of June 10, 2019.
Draft PC Work Session 06-10-19.pdf

2.B Approval of the Planning Commission Regular Session Meeting Minutes of June 10, 2019.
Draft PC Reg Session 06-10-19.pdf

3. CITIZENS/PUBLIC COMMENT
A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A Elect New Planning Commission Vice-Chairman.

4.B Motion to Initiate the Legislative Process to Add a Public Parking Facilities Element to the Newport Comprehensive Plan.

5. PUBLIC HEARINGS

5.A File No. 1-Z-19 NZO: Amendments to NMC Chapter 14.21 Geologic Hazards Overlay
File 1-Z-19.pdf

5.B File No. 2-Z-19: Zoning Ordinance Amendments Related to the Pruning and Removal of Trees within Roads Rights-of-Way and on Public Property. (Note: To Be Continued to the July 22, 2019 Planning Commission Regular Session Meeting)
File 2-Z-19 - Memorandum.pdf

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

***Draft* MINUTES**
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
June 10, 2019
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Jim Hanselman, and Bill Branigan (*by phone*).

Planning Commissioners Absent: Rod Croteau (*excused*).

Planning Commission Citizens Advisory Committee Members Present: Dustin Capri.

Public Members Present: Carla Perry, and Mona Linstromberg.

City Staff Present: Community Development Director (CDD) Derrick Tokos; Associate Planner, Rachel Cotton; and Executive Assistant, Sherri Marineau.

1. Call to Order. Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. Unfinished Business.

A. Amendments to the Park System Master Plan Component of the Comprehensive Plan. Tokos reviewed his staff memo and noted the link in the memo to see the complete Plan. He explained that the Commission could initiate a legislative process if they felt comfortable with it.

Cotton reviewed the summary of the Park System Master Plan (PSMP). She noted that trails were listed as cost per linear foot on the capital project list. Hanselman asked if the City built any of the trails or if they were reliant on community members. Cotton explained that part of the costs assumed that the City would take on some of the costs. She noted there was language for this in the goals and polices. Cotton explained that the range in costs were listed from the most simple to the best possible versions. She gave an example of what the difference in costs would be to do a $50,000 or $500,000 project for the Nye Beach turnaround. Berman asked if any of the projects listed were in the 2019-2020 budget. Cotton confirmed they were not.

Hardy asked for clarification on what the Wolf Tree project was. Cotton explained it was a planned development. Hardy asked if they had any plans to complete it. Tokos reported there weren't any plans with the current owner but the plans were to have it stay as a resort designation.

Hanselman asked for the current existing funds per year for capital projects. Cotton reported this was around $40,000. Tokos noted that it was variable. Capri asked if there were any line items for parks in the budget this coming year. Cotton reported there wasn't much, but said that the Betty Wheeler Memorial Field did receive funds.

Cotton continued to review funding sources. She noted there was a typo on the document that should be changed to say that transient room taxes were a City fund, not the County. Hanselman asked if the potential funding sources, such as the food and beverage tax, that wasn't currently being used could be utilized for projects. Cotton reported they were ones that weren't checked but they could be used. She noted that some of the ones that were checked could use funding such as general obligation bonds or system development fees. Cotton explained that the Capital Improvement component included the analysis for this.

Cotton reviewed the Goals and Polices next. Capri asked who made the decision on how to prioritize the near term projects. Cotton said this was done by a project advisory committee as well as city staff. They looked at all the projects, timeline, and equity issues. Cotton explained that everything that was in Tier I was something that already existed, apart from Big Creek Reservoir. Berman reported that there had been a general consensus, dot exercises, and surveys done to determine the priority list. Public Works input caused the 7th Street lot to drop down to Tier II. Tokos explained that there was no order of importance within the Tiers.

Capri questioned if the School Districts owned by the fields they used or if it was owned by City. Tokos reported the City owned the fields and they had use agreements with the School District in place to use the fields. Cotton reported that feedback from the public showed a strong approval for wanting fields in Newport. Tokos noted that only a small fraction of the projects listed would actually be completed. Branigan asked who would explore and write for the grants. Cotton explained that implementation measures included a cost analysis for hiring a part time grant writer. Tokos explained a lot of the projects were a blend between Public Works and Parks. Most of the grants were through the Public Works Department who had an existing grant writer on contract. If the grant was with the State Parks and Rec they would probably partner with the City's Parks and Rec Department.

Cotton asked for input from the Commission. Hanselman asked for clarification on what Implementation Measure 1.3.3 was for. Cotton reported an example of this was the benches on the Bayfront. She said she understood there was money to build benches but no money to maintain them. Capri thought that many of the projects would need to have the support of the School District. He felt there were people in the community that could help but there needed to be a mechanism to be able to connect with these people. Cotton noted the Implementation Measures for Policy 1.7 would help to connect these people. Capri invited Cotton to attend a Rotary meeting to connect with volunteers. Cotton suggested that Jim Protiva and Tim Gross attend because they had a better handle on the subject. She thought she would be better prepared to attend a Rotary meeting after projects had been determined.

Patrick noted that the PSMP didn't mention how projects would be prioritized inside the Tiers. Cotton said it wasn't possible to prioritize in tiers because it was more about funding and opportunities. Projects were funded as needs and grant opportunities came up.

B. **Transportation System Plan Schedule and Study Intersections.** Tokos reviewed his staff memo and the schedule with the Commission. Berman requested that specific dates for the Advisory Committee meetings be supplied instead of a range of dates.

Tokos noted that the dot maps showed where the consultants wanted to do a traffic analysis. Berman asked what the objective was to counting cars. Tokos reported it was to see if there were any intersections needing signalization, and identify intersections where there were vehicle/pedestrian conflicts. He noted that 60th Street and 36th Street needed to be added. Branigan thought that at some point there needed to be an analysis for low income housing. Berman asked about signage for the Agate Beach Wayside. Tokos would talk to Public Works about this. Hanselman noted that 25th Street and Oceanview Drive had issues with visibility. Tokos explained that Point 7 would pick this up. Capri and Berman suggested adding the intersection of 12th Street and Highway 101. Patrick thought 12th Street should be picked up at Oceanview Drive.

Berman asked what the difference was between the red and blue dots. Tokos reported that the red dots were more to inform on how the system was working at particular project locations. The blue dots were the ones that would most likely be seen in tables as potential projects, and were called out in the report. Capri suggested adding 8th Street. Berman suggested adding Bay Blvd and Fall Street. Capri asked to add Abbey Street and Highway 101. Franklin suggested SW 10th Street and Hurbert Street, and SW 7th Street and Fall Street. Patrick wanted Bay Street and 9th Street to be added.

3. **New Business.** No new business.

Adjourned at 7:00 p.m.

Respectfully submitted,

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Sherri Marineau,
Executive Assistant

***Draft* MINUTES**
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
June 10, 2019

Planning Commissioners Present: Lee Hardy, Bob Berman, Mike Franklin, Jim Hanselman, Jim Patrick, and Bill Branigan (by phone).

Planning Commissioners Absent: Rod Croteau (*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 7:05 p.m. On roll call, Commissioners Hardy, Berman, Franklin, Hanselman, Patrick and Branigan (by phone) were present.

2. Approval of Minutes.

A. Approval of the Planning Commission Regular Session Meeting Minutes of May 28, 2019.

MOTION was made by Commissioner Franklin, seconded by Commissioner Hanselman to approve the Planning Commission regular session meeting minutes of May 28, 2019 as written. The motion carried unanimously in a voice vote.

3. Citizen/Public Comment. Mona Linstromberg and Carly Perry addressed the Commission. Linstromberg presented a proposal to request a five year phase out for vacation rentals outside of the permitted overlay zone and stated she would be presenting this to the City Council. She said the group wanted to keep the Commission in the loop on the short-term rental issue and thanked them for all the work they did. Carla Perry handed out copies of the report to the Commission.

4. Action Items.

A. Recommendation for the Short-Term Rental Ordinance Implementation Work Group Planning Commission Member.

Tokos gave his staff report and reviewed the email that Commissioner Branigan submitted saying he was interested in serving as the Planning Commission representative on the work group. Hardy thought Branigan was an appropriate non-conflicted participant for the work group. She wanted to see this committee get past the third party liability issues and into the analysis of the operation of the management companies in terms of the three strikes you are out rule. She wanted them to also consider all human beings as part of the public, to be treated equally.

MOTION was made by Commissioner Berman, seconded by Commissioner Hardy to appoint Bill Branigan as the Short-Term Rental Ordinance Implementation Work Group Planning Commission member. The motion carried unanimously in a voice vote.

B. Motion to Initiate the Legislative Process for the Parks System Master Plan Component of the Comprehensive Plan.

MOTION was made by Commissioner Berman, seconded by Commissioner Hardy to initiate the legislative process for the Parks System Master Plan component of the Comprehensive Plan. The motion carried unanimously in a voice vote.

5. Public Hearings. At 7:12 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. Berman and Hanselman reported site visits for the conditional use hearing. 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. 4-CUP-19.

Tokos gave his staff report. He noted that the unit under consideration for this public hearing was the second unit in the complex that wanted to be a vacation rentals. The other unit had been granted a conditional use approval for parking. This was the only other unit allowed as a vacation rental in the complex.

Berman asked about the timing of the application and if it was submitted before the new ordinance went into effect. He noted he hadn't seen a vacation rental application included in the packet. Tokos reported that the applicant has submitted a vacation rental application before the new ordinance went into effect. It was in process and was considered an incomplete application. Berman wanted it noted that the application wasn't in the report.

Proponent: None were heard.

Opponents: None were heard.

Hearing closed at 7:20pm.

Hardy noted the application was asking for two parking spaces. Tokos reported they would only be granted one parking space, even though they were asking for two. Franklin didn't see a one bedroom vacation rental having an impact and thought there was plenty of parking. He thought it should be approved. Berman agreed and felt the conditions had been met. He noted that if they had applied for the conditional use after the new ordinance went into effect, it wouldn't be allowed. Hanselman said all the criteria had been met and since the other vacation rental at the building had a conditional use approval, the Commission didn't have a reason to deny the request. Branigan noted the Commission permitted the other unit in the building to have relief of one parking space and felt they met all the requirements. Patrick agreed that it met the criteria.

MOTION was made by Commissioner Franklin, seconded by Commissioner Hardy to approve File No. 4-CUP-19 as written. The motion carried unanimously in a voice vote.

Tokos noted that he prepared and shared with the Commission the final order and findings for the land use decision since they wouldn't be holding a meeting for another month. He said they could vote to approve it if they wished.

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve File No. 4-CUP-19 Final Order and Findings. The motion carried unanimously in a voice vote.

B. File No. 1 & 2-PD-19 / 1-SUB-19 / 1-MRP-19.

Tokos gave his staff report. He noted that if the Commission approved the decision, this wouldn't change any prior conditions unless they were revised in this proposal. The previous conditions would be carried forward.

Berman asked why the waiver of minimum street width was proposed to 30 feet. Tokos reported that a planned development process provided for changes to the standard requirements. Street width was one change that could be modified through planned developments. Southshore had a private existing street network of between 26-30 feet width already. He noted that the City required a 36 foot width for public streets, but this was a private street so they would not have to meet that width in this instance. Berman asked if the Public Works and Fire Departments had signed off on the plans. Tokos said the Assistant City Engineer in Public Works signed off on the plans. There were no comments from the Fire Department. The emergency access was one of their concerns and the applicant had addressed this. Franklin asked if this was private water and sewer. Tokos said it was public. Franklin asked if they allowed residential would it mean more of an impact on the system. Tokos didn't think so and thought that a hotel/retail use would have a heavier impact on the system.

Hanselman asked if this was zoned R-4 currently. Tokos confirmed it was. Hanselman asked if it was okay to develop as a R-2 zone. Tokos said the R-4 zoning allowed a wide range of single to multi-family dwellings. Hanselman asked when the planned development was originally approved was there any higher density at the time. Tokos said they were going to do condos on Cupola Drive at that time but they had changed them to single family lots. The original subdivision had been to add a hotel. Hanselman asked if there were any obligations to stick to their master plan. Tokos explained any applicant could come back and ask for changes to their plan.

Proponents: Chuck McClain addressed the Commission. He noted he had been the project manager for Southshore for 25 years. What they were presenting was their thoughts on the best way to finish the project. McClain explained that the idea was to create less traffic and he asked the Commission for approval. He noted that Trisha Clark from Emerio Design was present to answer technical questions.

Patrick asked why they switched from condos to single family homes. McClain said when the economy tanked they chose not to build any more condos. This land use action was the solution for this.

Opponents: None were heard.

Hearing closed at 7:42pm.

Hanselman suggested that all street lighting be downward to limit impact of light at night. Patrick thought this was in their standards already. Tokos wasn't certain of this or if the Central Lincoln PUD lights were this way. Franklin thought it all made sense. Berman and Hardy had no problems. Branigan was fine with the request and thought it was the right thing to do. He felt they met the requirements and would approve it. Patrick thought it was fine and noted that most planned developments came back to the Commission with modifications. Hanselman noted he wanted the staff recommendations to be included in the motion.

MOTION was made by Commissioner Franklin, seconded by Commissioner Berman to approve File No. 1 & 2-PD-19/1-SUB-19/1-MRP-19 with the staff recommendations included in the approval. The motion carried unanimously in a voice vote.

MOTION was made by Commissioner Hardy, seconded by Commissioner Franklin to approve File No. 1 & 2-PD-19/1-SUB-19/1-MRP-19 Final Order and Findings. The motion carried unanimously in a voice vote.

6. <u>New Business</u>. None were heard.

7. <u>Unfinished Business</u>.

A. <u>Rogue Beer and Brew Compliance Issues (File No. 2-CUP-19)</u>.

Tokos reviewed the staff memo and the email that Commissioner Croteau sent to the City Council pertaining to Rogue operating without a license and not paying room taxes. He noted that the City Council asked the City Manager to bring back a report to them. Tokos explained he could draft a letter from the Commission to the City Council, but given where things stood at that point, the most reasonable thing to do was wait and see how it played out. Patrick wanted a copy of the report that was brought to the City Council given to the Commission. Berman agreed with Croteau's concerns and thought it was important to address the issues of noncompliant vacation rentals and electing a fair compensation for the City when businesses didn't participate according to the rules. Franklin asked if there was an accounting of what was owed. Tokos said the amount due with taxes and penalties included had been reported to the City. Public records laws wouldn't allow him to share the exact amounts.

Hanselman still wanted to see a letter brought forward to the City Council even though this was being taken care of. He felt it had more weight if came from Commission. Franklin asked if a statement that the Commission was behind Croteau's letter should be done. Tokos suggested waiting to see what the City Manager reported to the City Council and then provide a response at that time. The Commission could then weigh in and either agree or provide a suggestion at that time. Patrick suggested that Tokos verbally convey to the City Council that the Commission was concerned about this and was tracking the issue. Franklin agreed with this. Hanselman thought they should revisit this.

Berman requested that Tokos prepare a work program for the Commission. Tokos said he would work on getting this to the Commission.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:51 p.m.

Respectfully submitted,

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Sherri Marineau
Executive Assistant

Case File: 1-Z-19
Hearing Date: July 8, 2019/Planning Commission

PLANNING STAFF MEMORANDUM
FILE No. 1-Z-19

I. **Applicant:** Initiated by motion of the Newport Planning Commission on February 25, 2019.

II. **Request:** Amends geologic hazards land use regulations, clarifying requirements related to exemption for exploratory excavations, updates report guidelines and storm water standards, and requires peer review of reports in active landslide areas.

III. **Findings Required:** This is a legislative action whereby the City Council, after considering a recommendation by the Newport Planning Commission, must determine that the changes to the Municipal Code are necessary and further the general welfare of the community (NMC 14.36.010).

IV. **Planning Staff Memorandum Attachments:**

Attachment "A" – Draft amendments to NMC Chapter 14.21, dated May 29, 2019
Attachment "B" – Maps of active landslide areas within the City of Newport
Attachment "C" – Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologist Reports," dated May 30, 2014
Attachment "D" – Letter from Mona Linstromberg, with attachments, received June 25, 2019
Attachment "E" – Letter from Doug Gless, H.G. Schlicker and Associates, dated June 7, 2019
Attachment "F" – Notice of public hearing

V. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on May 30, 2019. Notice of the Planning Commission hearing was published in the Newport News-Times on June 28, 2019 (Attachment "F").

VI. **Comments:** Comments were received from Mona Linstromberg and Doug Gless. Both letters are enclosed.

VII. **Discussion of Request:** At its January 28, 2019 work session, the Planning Commission considered a request by Mona Linstromberg that it make targeted amendments to the Geologic Hazards Chapter of the Newport Municipal Code to, at a minimum, require peer review of geologic reports in active landslide hazard areas. Ms. Linstromberg, along with other interested parties, was involved in an appeal of a geologic permit issued by the City within an active landslide area. In that case the appellants had to pay for what was, in many respects, a peer review of the applicant's geologic report, and Ms. Linstromberg expressed that she does not believe it is fair that persons who frequent or live in close proximity to active landslide areas be forced to incur such costs.

The Planning Commission agreed to take up a set of amendments and reviewed a draft of the proposed edits at its February 25, 2019 work session. At its regular meeting that same evening, the Commission made a motion to formally initiate the legislative amendment process. Proposed changes, included as Attachment "A" to this report, require that a certified engineering geologist or geotechnical engineer outline the scope of exempt "exploratory excavations" in writing before the work is performed and provide active oversight of the work (NMC 14.21.040(D)). The changes further clarify that reports are to be prepared using the most recent edition of the Oregon State Board

of Geologist Examiners "Guidelines for Preparing Engineering Geologist Reports" (NMC 14.21.060) and that storm water retention facilities associated with new development be designed to accommodate a 25-year storm event, which is the city's current standard (NMC 14.21.100). A new section will be added outlining peer review requirements for active hazard areas (NMC 14.21.120). Peer review reports would be prepared by a firm selected by the City with the cost potentially being borne by the applicant. A peer reviewer may choose to conduct a site visit, but would not be required to do so.

With respect to the approval standard for legislative amendments, it would be reasonable for the Commission to conclude that these changes are necessary and further the general welfare of the community because they will improve the quality of reporting, enhanced project oversight, and ensure stormwater is effectively managed in active landslide hazard areas, reducing the chances that resulting development will adversely impact the subject property or nearby parcels.

A copy of the draft amendments was shared with Doug Gless, MSc, RG, CEG, LHG, with H.G. Schlicker and Associates, a firm that has prepared a number of geologic reports in Newport. Mr. Gless felt that a requirement that a letter be prepared outlining the scope of exempt exploratory work is regulatory overkill, that a site visit should not be a compulsory component of peer review, and that Newport may want to simplify its report requirements so that applicants are required to meet the state or city guidelines, but not both (Attachment "E").

Active landslide hazards impact a modest amount of property in the City of Newport (Attachment "B"). There is a legitimate risk that such areas could be destabilized by earthwork performed to facilitate exploratory excavations, if the grading is done without direct oversight by the licensed professional. Therefore, staff recommends the proposed changes be retained. With respect to whether or not a peer reviewer should be obligated to perform a site visit, staff concurs with Mr. Gless that such a decision should be left to the peer reviewer. Ms. Linstromberg argues that a site visit should be required because it provides the peer reviewer the opportunity to observe visual clues (Attachment "D"). Some licensed professionals may agree, whereas others may not. As Mr. Gless points out, the role of the peer reviewer is to ensure that the City's regulations have been met and that the appropriate standards of professional care and practice have been followed. Staff recommends the Commission defer to the peer reviewer as to the level of investigation they feel they need to undertake to complete this task. Lastly, with regards to materially changing the guidelines that are to be followed for preparing geologic reports, that is something the Planning Commission may want to consider under a separate process that involves a greater degree of public involvement.

VIII. **Conclusion and Recommendation:** The Planning Commission should review the proposed amendments and make a recommendation to the City Council. The Commission recommendation can include suggested changes to the proposed amendments.

Derrick I. Tokos, AICP
Community Development Director
City of Newport

July 1, 2019

Attachment "A"
1-Z-19

CHAPTER 14.21 GEOLOGIC HAZARDS OVERLAY

14.21.010 Purpose

The purpose of this section is to promote the public health, safety, and general welfare by minimizing public and private losses due to earth movement hazards and limiting erosion and related environmental damage, consistent with Statewide Planning Goals 7 and 18, and the Natural Features Section of the Newport Comprehensive Plan.

14.21.020 Applicability of Geologic Hazards Regulations

A. The following are areas of known geologic hazards or are potentially hazardous and are therefore subject to the requirements of Section 14.21:

1. Bluff or dune backed shoreline areas within high or active hazard zones identified in the Department of Geology and Mineral Industries (DOGAMI) Open File Report O-04-09 Evaluation of Coastal Erosion Hazard Zones along Dune and Bluff Backed Shorelines in Lincoln County, Oregon: Cascade Head to Seal Rock, Technical Report to Lincoln County, dated 2004.

2. Active or potential landslide areas, prehistoric landslides, or other landslide risk areas identified in the DOGAMI Open File Report O-04-09.

3. Any other documented geologic hazard area on file, at the time of inquiry, in the office of the City of Newport Community Development Department.

A "documented geologic hazard area" means a unit of land that is shown by reasonable written evidence to contain geological characteristics/conditions which are hazardous or potentially hazardous for the improvement thereof.

B. The DOGAMI Open File Report O-04-09 is not intended as a site specific analysis tool. The City will use DOGAMI Open File Report O-04-09 to identify when a Geologic Report is needed on property prior to development. A Geologic Report that applies to a specific property and that identifies a proposed development on the property as being in a different hazard zone than that identified in DOGAMI Open File Report O-04-09, shall control over

DOGAMI Open File Report O-04-09 and shall establish the bluff or dune-backed shoreline hazard zone or landslide risk area that applies to that specific property. The time restriction set forth in subsection 14.21.030 shall not apply to such determinations.

C. In circumstances where a property owner establishes or a Geologic Report identifies that development, construction, or site clearing (including tree removal) will occur outside of a bluff or dune-backed shoreline hazard zone or landslide risk areas, as defined above, no further review is required under this Section 14.21.

D. If the results of a Geologic Report are substantially different than the hazard designations contained in DOGAMI Open File Report O-04-09 then the city shall provide notice to the Department of Geology and Mineral Industries (DOGAMI) and Department of Land Conservation and Development (DLCD). The agencies will have 14 days to provide comments and the city shall consider agency comments and determine whether or not it is appropriate to issue a Geologic Permit.

(*Section amended by Ordinance No. 1601 (5-20-91) and then repealed and replaced in its entirety by Ordinance No. 2017 (8-17-2011).)

14.21.030 Geologic Permit Required

All persons proposing development, construction, or site clearing (including tree removal) within a geologic hazard area as defined in 14.21.010 shall obtain a Geologic Permit. The Geologic Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit required by the city.

Unless otherwise provided by city ordinance or other provision of law, any Geologic Permit so issued shall be valid for the same period of time as a building permit issued under the Uniform Building Code then in effect.

14.21.040 Exemptions

The following activities are exempt from the provisions of this chapter:

A. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;

B. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

C. Fill which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

D. Exploratory excavations under the direction and oversight of a registered engineering geologist or geotechnical engineer. A letter from the engineering geologist or geotechnical engineer outlining the scope of work shall be submitted before earthwork is commenced;

E. Construction of structures for which a building permit is not required;

F. Removal of trees smaller than 8-inches dbh (diameter breast height);

G. Removal of trees larger than 8-inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;

H. Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry;

I. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the area previously disturbed;

J. Installation of utility lines not including electric substations; and

K. Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard.

Staff: Sub-section D has been amended to require a letter outlining the scope of work before earthwork is commenced and to clarify that the engineering geologist or geotechnical

engineer is to provide oversight through the course of the exploratory excavation.

14.21.050 Application Submittal Requirements

In addition to a land use application form with the information required in Section 14.52.020, an application for a Geologic Permit shall include the following:

A. A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8-inches dbh (diameter breast height) proposed for removal; and

B. An estimate of depths and the extent of all proposed excavation and fill work; and

C. Identification of the bluff or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, a certified engineering geologist shall identify the hazard zone(s) within which development is proposed; and

D. A Geologic Report prepared by a certified engineering geologist, establishing that the site is suitable for the proposed development; and

E. An engineering report, prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), must be provided if engineering remediation is anticipated to make the site suitable for the proposed development.

14.21.060 Geologic Report Guidelines

Geologic Reports shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles and shall, at a minimum, contain the items outlined in the most recent edition of the Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologic Reports in Oregon~~," ,"in use on the effective date of this section~~. Such reports shall address subsections 14.21.070 to 14.21.090, as applicable. For

oceanfront property, reports shall also address the "Geological Report Guidelines for New Development on Oceanfront Properties," prepared by the Oregon Coastal Management Program of the Department of Land Conservation and Development, in use as of the effective date of this section. All Geologic Reports are valid as prima facie evidence of the information therein contained for a period of five (5) years. They are only valid for the development plan addressed in the report. The city assumes no responsibility for the quality or accuracy of such reports.

Staff: Oregon State Board of Geologist Examiners guidelines are updated from time to time, with the most recent version dated 2014. Engineering geologists will use the most current version and the City code should reflect that practice.

14.21.070 Construction Limitations within Geologic Hazard Areas

A. New construction shall be limited to the recommendations, if any, contained in the Geologic Report; and

   1. Property owners should consider use of construction techniques that will render new buildings readily moveable in the event they need to be relocated; and

   2. Properties shall possess access of sufficient width and grade to permit new buildings to be relocated or dismantled and removed from the site.

14.21.080 Prohibited Development on Beaches and Foredunes

Construction of residential, commercial, or industrial buildings is prohibited on beaches, active foredunes, other foredunes that are conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding. Other development in these areas shall be permitted only if a certified engineering geologist determines that the development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves and is designed to minimize adverse environmental effects. Such a determination shall consider:

A. The type of use proposed and the adverse effects it might have on the site and adjacent areas;

B. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

C. Methods for protecting the surrounding area from any adverse effects of the development; and

D. Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.

14.21.090 Erosion Control Measures

In addition to completing a Geologic Report, a certified engineering geologist shall address the following standards.

A. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

B. Development plans shall minimize cut or fill operations so as to prevent off-site impacts;

C. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

D. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

E. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

F. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;

G. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty year frequency storm to suitable drainageways such as

storm drains, natural watercourses, or drainage swales. In no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure.

H. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;

I. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas;

J. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and

K. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities.

14.21.100 Storm water Retention Facilities Required

For structures, driveways, parking areas, or other impervious surfaces in areas of 12% slope or greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities ~~as~~ when specified by the City Engineer. The retention facilities shall be designed for storms having a ~~20~~25-

year recurrence frequency. Storm waters shall be directed into a drainage with adequate capacity so as not to flood adjacent or downstream property.

Staff: The Public Works Department settled on a more conservative 25-year design storm as the City standard after this code was last updated. They also do not require retention in all circumstances. The proposed changes reflect their current practices regarding storm water management.

14.21.110 Approval Authority

An application shall be processed and authorized using a Type I decision making procedure.

14.21.120 Peer Review within Active Landslide Zones

Upon receipt of an application for development within an active landslide zone, City shall refer the Geologic Report to a certified engineering geologist to perform a peer review during the 30-day period within which the application is reviewed for completeness. The peer reviewer shall confirm, in writing, that the Geologic Report was prepared in accordance with the requirements set forth in this Chapter. In the event the peer reviewer identifies the need for additional analysis or clarification, those comments shall be provided to the applicant so that they can be addressed by the Report's author.

In circumstances where a Geologic Report is accompanied by an engineering report , prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), that report shall be subject to peer review by an individual with equivalent qualifications in the same manner as described above.

City may require that a fee deposit be paid by the applicant to off-set the cost of the peer review, with the amount of the deposit being set by City Council resolution.

Staff: This section is drafted to provide for peer review in active landslide areas, as discussed at the 1/28/19 work session. The Commission expressed a preference that the professional be independent of the applicant, and since their feedback may result in revisions to the application, it is important that the review occur before an application is

deemed complete. A fee resolution would be prepared to address the fee deposit issue if this moves forward.

14.21.~~120~~130 Appeals of Geologic Permits

Any appeal from the issuance or denial of a Geologic Permit shall be filed within 15 calendar days of the date the city issues a final order as provided by Section 14.52.050. Appellants challenging substantive elements of a Geologic Report shall submit their own analysis prepared by a certified engineering geologist. Such report shall be provided within 30 days of the date the appeal is filed. A failure to submit a report within this timeframe is grounds for dismissal of the appeal.

14.21.~~130~~140 Certification of Compliance

No development requiring a Geologic Report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the city receives a written statement by a certified engineering geologist indicating that all performance, mitigation, and monitoring measures contained in the report have been satisfied. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the city must also receive an additional written statement of compliance by the design engineer.

14.21.~~140~~150 Removal of Sedimentation

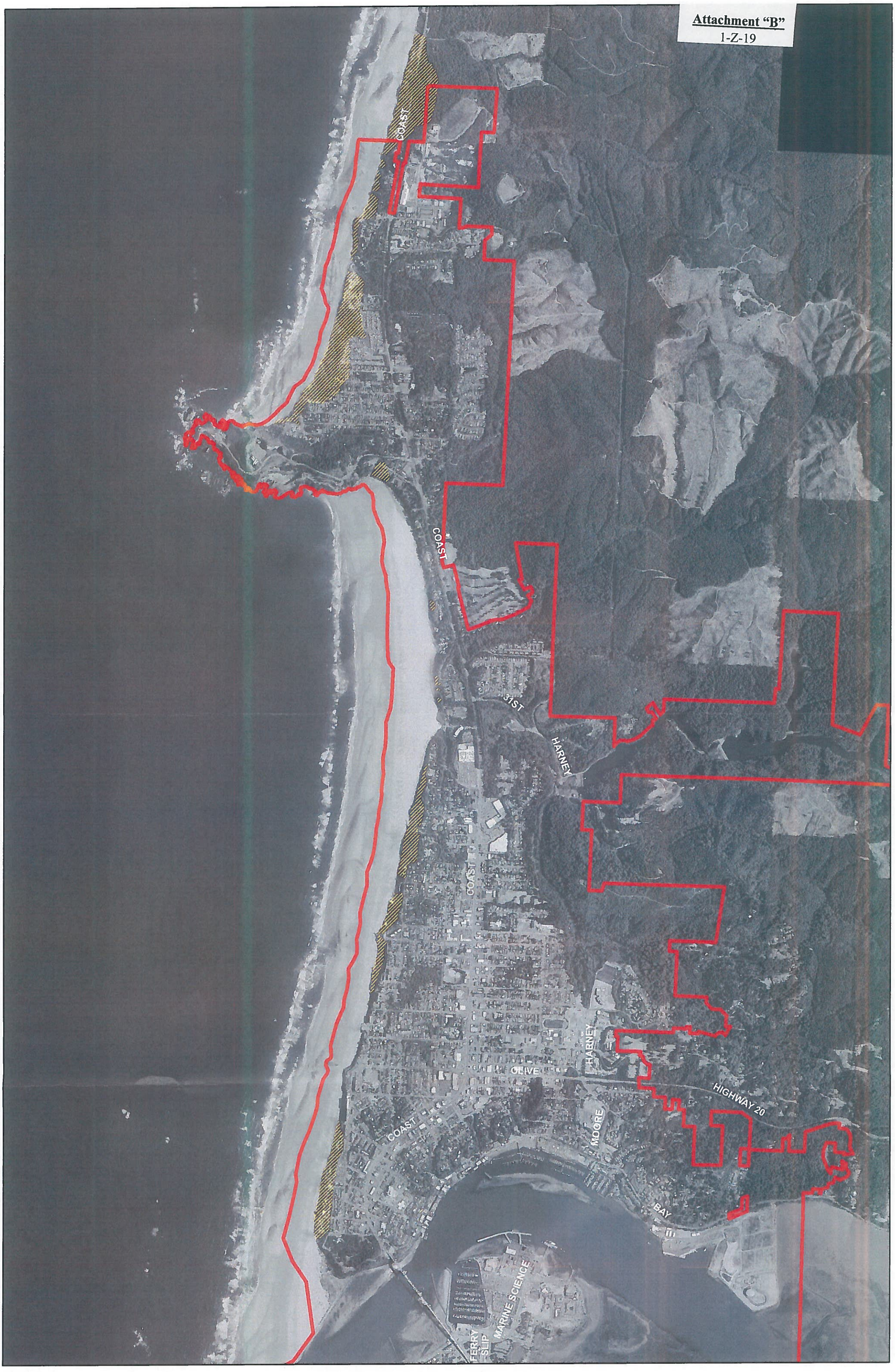
Whenever sedimentation is caused by stripping vegetation, grading, or other development, it shall be the responsibility of the person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems and to return the affected areas to their original or equal condition prior to final approval of the project.

14.21.~~150~~160 Applicability of Nonconforming Use Provisions

A. A building or structure that is nonconforming under Section 14.32 of the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster shall be subject to the casualty loss provisions contained in Section 14.32 of the Zoning Ordinance. Application of the provisions of this section to a property shall not have the effect of rendering it nonconforming.

B. A building or structure that conforms to the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster may be replaced with a building or structure of up to the same size provided a Geologic Report is prepared by a certified engineering geologist. A Geologic Report prepared pursuant to this subsection shall adhere to the Geologic Report Guidelines outlined in subsection 14.21.030. All recommendations contained in the report shall be followed, however the report need not establish that the site is suitable for development as required in subsection 14.21.050(D). An application filed under this subsection shall be processed and authorized as a ministerial action by the Community Development Department.

Attachment "B"
1-Z-19



City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

North Newport Active Landslide Areas
(Highlighted in Yellow)

Image Taken July 2018
4-inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

0 1,000 2,000 4,000 Feet

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City of Newport
Community Development Department
169 SW Coast Highway Phone:1.541.574.0629
Newport, OR 97365 Fax:1.541.574.0644

South Newport Active Landslide Areas (Highlighted in Yellow)

Image Taken July 2018
4-inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

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Oregon State Board of Geologist Examiners

Guideline for Preparing Engineering Geologic Reports

Second Edition
May 30, 2014

Disclaimer

This guidance document is intended to provide general information about the Oregon State Board of Geologist Examiners (Board) and its regulation of the public practice of geology in Oregon. This guidance document does not replace, supersede, or otherwise override statutes, rules, orders, or formal policies pertaining to the public practice of geology. The information herein does not and is not intended to make or create any new standard, requirement, or procedure for which rulemaking or other legal process is required. This guidance document is not intended to address every possible situation or question regarding the Board's regulation of the public practice of geology. This document is updated and revised at the Board's discretion. This document does not and is not intended to provide legal advice. No rights, duties, or benefits, substantive or procedural, are created or implied by this guidance document. The information in this guidance document is not enforceable by any person or entity against the Board. In no event shall the Board, or any employee or representative thereof, be liable for any damages whatsoever resulting from the dissemination or use of any information in this guidance document.

For more information about the Board, visit: http://www.oregon.gov/OSBGE/Pages/index.aspx.

You may also contact the Board at:

Email Address:	osbge.info@state.or.us
Physical/Mailing Address:	707 13th St. SE, Suite 114 Salem, OR 97301
Telephone:	503-566-2837

I. BACKGROUND ON THE BOARD & PURPOSE FOR GUIDELINE

A. BOARD MISSION & AUTHORITY

The Oregon Board of Geologist Examiners (OSBGE, or the Board) was created in 1977 to oversee the registration (licensing) of persons who engage in the public practice of geology in the State of Oregon.

The mission of the Board is to help assure the health, safety, and welfare of Oregonians with regard to the public practice of geology through:

1. Licensing of those engaged in the public practice of geology;
2. Response to complaints from the public and members of the profession;
3. Public education directed at appropriate regulatory communities;
4. Cooperation with closely related boards and commissions;
5. Attention to ethics; and
6. Systematic outreach to counties, cities, and registrants

The Board is authorized under Oregon Revised Statute (ORS) 672.515, and operates in accordance with Oregon Administrative Rules (OAR) Division 809. The Board's responsibility is to govern the practice of geology and to insure that ORS 672.505 to ORS 672.705, ORS 672.991 and (OAR) Division 809 are administered fairly and effectively throughout the state. The Board is a semi-independent state agency subject to ORS 182.454 to ORS 182.472.

ORS 672.505 defines geology as:

- That science that treats of the earth in general;
- Investigation of the earth's crust and the rocks and other materials that compose it; and
- The applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of humanity.

The Board regulates the public practice of geology, including engineering geology as a specialty certification. The laws require those who publically practice geology to be registered with the Board unless specifically exempted. A "Geologist" means a person engaged in the practice of geology, and an "Engineering Geologist" means a person who applies geologic data, principles and interpretation to naturally occurring materials so that geologic factors affecting planning, design, construction and maintenance of civil engineering works are properly recognized and utilized.[1] No person, other than a Registered Geologist (RG) or a Certified Engineering Geologist (CEG) shall provide or prepare for the public practice of geology any geologic maps, plans, reports, or documents except as specifically exempted in ORS 672.535. The Board maintains a list of geologists currently registered to legally engage in the public practice geology in the State of Oregon, as well as a sub-list of CEG's who can engage in the practice of engineering geology.

[1] ORS 672.505(3) and (4)

B. PURPOSE FOR GUIDELINE

The following guideline is intended to encourage best practices in the field of engineering geology in Oregon. Such best practices optimize and support protection of Oregonians and their interests. To this end, the guideline is intended as a tool for the preparation, use and review of engineering geologic reports and geotechnical reports prepared by engineering geologists licensed in the State of Oregon. These reports should include sufficient data, analysis, and interpretation regarding geologic materials, structure, processes, and history to support conclusions, identify potential risks, and establish recommendations regarding the proposed activity, design, modification, or use of the site. This guideline proposes recommended contents and suggested formats for reports and attempts to incorporate the major topics normally encountered in such studies. This guidance does not include a theoretical or technical background to each area of engineering geology addressed. Possession of the technical proficiencies required to prepare such reports is the responsibility of the CEG author. The actual scope of services documented in an engineering geologic report or a geotechnical report will vary depending on the level of detail, accuracy, and complexity needed for the intended application.

The term "geotechnical" as used in this guideline is a term for applied scientific work involving soil and rock mechanics, geology, geophysics, hydrology or related sciences as applied to the solution of civil works problems. The field of geotechnics is practiced by both engineering geologists and geotechnical engineers. A few examples of geotechnics work are the prediction, prevention or mitigation of natural hazards such as landslides and rockslides and the application of soil, rock and groundwater mechanics to the design of earthen or other man-made structures. This guideline does not address geotechnics work by professional engineers as the Board does not regulate the practice of engineering. This guideline focuses on engineering geology work by CEGs.

A CEG produces reports that are sometimes interchangeably called engineering geologic reports and geotechnical reports. A CEG also provides the engineering geology content of a geotechnical engineering report. A report containing engineering geologic interpretation must be signed and stamped by a CEG pursuant to OAR 809 Divisions 020 and 050. A report containing work by a CEG and geotechnical engineer should be signed and stamped by both professionals and include a description of individual responsibilities for the work addressed in the report. From here on out, the guideline uses the terminology of engineering geology report to refer to any report involving engineering geology work that is prepared by a CEG.

Considering that a CEG must become a RG first, the CEG may also work in areas of geology beyond engineering geology and contribute to or prepare other types of geologic reports, such as hydrogeologic reports and mineral resource evaluation reports. Such geologic work is not addressed in this guideline. See the Board's separate guidelines on geologic reports and hydrogeologic reports.

1. Registrants

This guideline provides a general list of items that could be included in an engineering geologic report. All elements of this guideline should be considered during the preparation and review of reports prepared by engineering geologists. The guideline does not include systematic descriptions of all available techniques or topics, nor is it suggested that all techniques or topics necessarily be applied to every project. Because of the wide variation in size and complexity of projects and scope of work, this guideline is intended to be flexible, and the CEG's report should always be tailored to the specific project. For example, not all topics covered in this guideline would be applicable to small projects or low-risk sites.

2. Report End Users and Reviewers

End users and reviewers of engineering geologic reports can use this guideline in their reading, review, and utilization of a particular report for their proposed project. However, this guideline is not intended as a "checklist" for the contents of any particular engineering geologic report. The actual scope of services and topics presented in a particular engineering geologic report will vary depending on the level of detail, accuracy, and complexity needed for the intended project. Each report should include sufficient data, analyses, and interpretation regarding geologic materials, structure, processes, and history to support conclusions regarding potential risks, considerations, and recommendations regarding the proposed activity, modification, or use of the site.

C. ACKNOWLEDGEMENTS

This guidance document was prepared for the Board by Stephen P. Palmer, RG, CEG (E2155) under the auspices of LEI Engineering and Surveying, LLC. The second edition has been substantially updated compared to the 1990 first edition based on input from Board members, Board registrants, Board staff, and other public participants. In addition, this guideline has been prepared after review of other guidelines and recommendations for geologic and engineering geologic reports developed by other state and provincial agencies, registration and licensing authorities, and professional organizations. A list of these publications is presented in the reference section of this document.

Palmer worked with a peer review panel of Oregon CEGs in crafting the document: Susan Bednarz (E1681), Charles Clough (E1865), Curtis Ehlers (E1610), Thomas Horning (E1131), and Christopher Humphrey (E1692). Palmer also assisted the Board with revisions in response to public comments received on a draft posted for public review. The Board recognizes the contributions of Palmer, the review panel CEGs and all Oregon RGs and others who took the time to weigh in on this guideline. Through comments and recommendations, these individuals made a significant contribution to development of this guideline. Board Member Peter Stroud (E0975) assisted with editing.

II. REPORT CONTENT AND PREPARATION

A. CONTENT OF AN ENGINEERING GEOLOGIC REPORT

The following topics are provided as a guide for the content of an engineering geologic report and should be considered and addressed in detail where essential to support interpretations, analyses, designs, conclusions, and recommendations. A CEG may not need to address all of these topics in a particular report, as there is a wide range in the level of detail, accuracy, and complexity needed in reports depending on the intended application.

1. Introduction

Each report should include an introductory section containing adequate background information to inform the reader of the purpose for the engineering geologic work and report. Specific items that should be addressed in the introduction include:

- The purpose and objectives of the engineering geologic investigation and report, including the level of the study (i.e., feasibility, reconnaissance, preliminary, final.);
- The client or party that commissioned the report.
- The time period over which the investigation was performed;
- The location of the site with specific reference to a map included within the report that shows the site in context of known geographic features such as roads and water bodies;
- A description of the proposed land use or development activities needing an engineering geologic study, including the regulatory framework and requirements that are addressed by the report;
- The defined scope of work for the engineering geologic investigation and report, including specific tasks that were performed as part of the work;
- A description of prior work on the site or in the immediate area that has been reviewed or relied upon in the geologic investigation and preparation of the engineering geologic report.

2. Physiographic Setting and Regional Geology

A description of the physiographic setting of the site and regional geology provides a framework for the evaluation of site specific conditions. The discussion of physiographic setting may include:

- Physical characteristics such as topography, climatic conditions, vegetative characteristics, latitude and longitude, township-range-section, landmarks, political boundaries, geomorphic features of the province, faults and seismicity, natural resources, water bodies, drainage patterns, and other physical features of the site and surrounding area;
- Anthropomorphic data, such as land use(s), community development, and effects of human activity.

The discussion of regional geology may include:

- Nature and source of available published geologic reports or maps;
- Stratigraphy and lithology of regional formations or geologic map units;
- Geologic structure, including folding, faulting, and discontinuity or fracture characteristics;
- Historical seismicity;
- Surface water features and regional drainage patterns;
- Groundwater conditions, including aquifer systems and aquitard units;
- Geomorphology and surficial processes;
- Regional geologic hazard identification and mapping.

3. Site Characterization

Site characterization is intended to provide adequate and accurate information to support the interpretations, analyses, designs, conclusions, and recommendations addressing the scope and objectives of the engineering geologic report. Site characterization is at the heart of the engineering geologic study and is a crucial part of the geologic investigation and report. The focus of the engineering geologic report is the potential effects and impacts of geologic conditions on the proposed civil development. The following items provide an example of a comprehensive scope for the site characterization section of an engineering geologic report.

3.1 Site Description

A description of the project site is crucial in providing the report reader with an understanding of the conditions that influence the proposed activity addressed by the engineering geologic study. A detailed map (or maps) of the site should be used as reference for the site description section. The site description should include:

- Topographic and geomorphic conditions of the site and vicinity, including minimum and maximum elevations, total relief, slope grade, form, and aspect;
- Vegetation, including ground and tree cover, density, etc.;
- Surface water features, including existing drainage pattern, streams, ponds, seeps and springs, areas of wet or soft ground, etc.;
- Existing development such as buildings, structures, roadways, and utilities and evidence of past development activities like areas of cut or fill or abandoned foundations;
- Previous site uses that could impact the proposed uses of the site;
- Evidence of past or current geologic processes and hazards, such as soil creep, landsliding, soil erosion, settlement, channel avulsion and migration, and flooding;
- Known or suspected engineering geologic conditions and geologic and seismic hazards that could impact the proposed land use or development activities, including a statement regarding past performance of existing facilities in the immediate vicinity;
- Photographs showing relevant site features;
- Known or suspected soil or groundwater contamination.

3.2 Site Investigation

A wide range of methods may be employed in characterization of the site, and the following topics are not intended as a comprehensive listing. Other appropriate methods or approaches should be utilized if appropriate.

- Remote sensing, including aerial photographic interpretation, time sequential photographs, lidar data, infrared imagery, and other available data;
- Field reconnaissance and geologic mapping, with discussions of results referencing previous mapping of the site, if available;
- Subsurface investigation, including hand auger, test pit, trench, and drilling explorations, with locations of subsurface explorations shown on a detailed site map and complete logs of the explorations provided with the report, along with a key to interpretation of the logs;
- Installation and monitoring of in situ instrumentation such as slope inclinometers, piezometers, extensometers and settlement devices, and borehole accelerometers;
- Measurements performed during field reconnaissance and subsurface exploration, and laboratory testing of collected samples;
- Geophysical surveys such as by seismic refraction/reflection, electrical resistivity, ground penetrating radar, or magnetometer.

3.2.1 Remote Sensing

The report should include the source and date of any remote sensing data utilized by the CEG in preparation of the report. Interpretations and analyses of remote sensing data should be described in the report text and presented on detailed maps of the site.

3.2.2 Field Reconnaissance, Geologic Mapping, and Subsurface Investigation

The CEG should describe all field mapping, subsurface exploration, and field and laboratory testing procedures including but not necessarily limited to surface geologic reconnaissance, drilling, trenching, and geophysical survey. Results of the field reconnaissance and geologic mapping of the site area should be done at a scale that shows sufficient detail to adequately define the existing geologic conditions. Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base map should be included on each map or photo. For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, and independent geologic mapping will be necessary. If published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes that have occurred since map publication. It may be necessary for the engineering geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.

The nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials, including groundwater, exposed and inferred within the area should be discussed in the report with reference to appropriate figures presenting these data and interpretations. These reference figures could include but not necessarily be limited to detailed site maps, cross-sections, and fence diagrams. The report should typically include one or more appropriately positioned and scaled cross-sections to show subsurface

relationships. A clear distinction should be made between observed and inferred features and relationships.

3.2.3 Geologic Descriptions

The report should contain brief but complete descriptions of all geologic rock, soil units, any fill, and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. In providing descriptions and characterization of rock and soil units and the mapping of this data, the CEG should consider using the following standardized methodologies:

- The Unified Soil Classification System (USCS) is a standard procedure for classification of soil material in engineering studies (ASTM, 2009, 2011, or the current revision);
- The Unified Rock Classification System (URCS) provides a systematic and reproducible method of describing rock weathering, strength, discontinuities, and density applicable in engineering studies (Williamson, 1984; ASTM, 2008, or the current revision);
- The International Society for Rock Mechanics (ISRM) Basic Geotechnical Description of Rock Masses provides a standard method to communicate an overall assessment of rock masses, particularly with regard to its anticipated mechanical behavior (ISRM, 1981, or the current revision).
- Engineering geology mapping can be done using the Genesis-Lithology-Qualifier (GLQ) system (Keaton, 1984), rather than the conventional Time-Rock system commonly used in geologic mapping. The GLQ system promotes communication of geology information to non-geologists;
- Systems for mapping landslide deposits are described by Wieczorek (1984), McCalpin (1984), and Resource Inventory Committee, (1996).

The engineering geologic report should include documentation of laboratory and field testing including any geophysical surveys with reference to standard testing procedures. Test or survey procedures, data, and analytical results should be presented in report appendices. Subcontractors responsible for the field and laboratory testing, data processing, and data interpretation should be identified in the report.

The following items may be useful as a general, though not necessarily complete, guide for geologic rock and soil unit descriptions.

Rock Units

- Identification and classification of rock types, using either published classification systems (e.g., URCS or ISRM) or with documentation of other classification procedures used;
- Relative and/or absolute age and, where possible, correlation with named formations and other stratigraphic units;
- Surface and subsurface expression, areal distribution, and thickness;
- Pertinent physical characteristics such as color, grain size, mineralogy, nature of stratification, strength, and variability;
- Distribution and extent of zones of weathering; significant differences between fresh and weathered rock;

- Structural features and their characteristics, including stratification, jointing and fractures, foliation, schistosity, faults, and folds;
- Geomorphic expression of bedrock lithologies and structural features;
- Other significant engineering geologic characteristics or concerns.

Soil Units

- Identification and classification of soil material, using either published classification systems (e.g., USCS) or with documentation of other classification procedures used ;
- Distribution, dimensional characteristics, variations in thickness, degree of soil development, soil genesis, evidence of past disturbance and fill placement, and surface expression;
- Pertinent physical and engineering characteristics such as color, grain size, grain lithology, density/consistency, cementation, structure, strength, thickness, and variability;
- Special physical or chemical features, which could include indications of volume change or instability, such as expansive clays or peat, corrosivity, or the presence of contamination;
- Other significant engineering geologic characteristics or concerns.

3.2.4 Surface and Groundwater Occurrence

- Distribution, occurrence, and variation in surface waters such as drainage courses, ponds, swamps, springs, seeps, and aquifers;
- Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, perching condition, aquicludes and aquitards, flow direction, gradient, recharge and discharge areas;
- Relationship of surface and groundwater to topographic and geologic features;
- Evidence for past occurrence of water at localities now dry including vegetation, mineral deposits, erosional and depositional features from flash flooding, or historical records;
- Seasonal or long-term variations in surface and groundwater, including fluctuations in groundwater elevation, recharge and discharge of surface water features, response of surface and groundwater due to variations in precipitation, temperature, or other factors;
- Potential impacts of existing or future surface water or shallow groundwater conditions ;
- Riverine or coastal flood potential, including 100-year and 500-year flood elevations, mean high water, and other pertinent data;
- Potential for channel migration or avulsion;
- Other significant engineering geologic characteristics or concerns.

3.2.5 Seismicity and Earthquake Occurrence

- Description of the seismotectonic setting of the site area, including size, frequency, and location of historic earthquakes, and understanding of prehistoric earthquake activity;
- Potential for site to be affected by surface rupture, including sense and amount of displacement, and width of surface deformation zone;
- Potential for area to be affected by regional tectonic deformation;
- Estimated bedrock ground motion, either probabilistic and/or deterministic, as appropriate, and site class modification of bedrock ground motion;
- Potential for tsunami and seiche flooding, including estimated tsunami inundation area, water elevation, and velocities as applicable;

- Potential for area to be affected by earthquake-induced ground failures, including duration of shaking, soft soils, liquefaction, cyclic soil strength reduction, lateral spreading, settlement, and landslides;
- Special engineering geologic characteristics or concerns affecting proposed land use and development activities.

3.2.6 Mass Wasting and Erosional Occurrence

- Review of State guidelines and local ordinance requirements regarding mass wasting hazards and grading;
- Review of available information on mass wasting and soil erosion, including landslide hazard mapping, geologic maps, and National Resource Conservation Service soil mapping;
- Review of remote sensing data as described in Section 3.2 of this guideline;
- Review of current site conditions relevant to mass wasting and soil erosion, including detailed descriptions of landslides or areas of soil erosion affecting the site; Description of geomorphic features indicative of mass wasting and soil erosion, including anomalous landforms, vegetative indicators, and distress to existing structures and utilities;
- Review of surface mapping and subsurface investigation results of mass wasting features, including earth materials, groundwater conditions, extent and rates of movement, etc.;
- Potential for coastal erosion or riverine bank erosion to affect long-term slope stability;
- Other significant engineering geologic characteristics or concerns identified during site investigation.

4. Assessment of Engineering Geological Conditions and Factors

Assessment of existing engineering geological conditions, processes, and hazards, and their related risks and impacts with respect to the intended use of the site constitutes the principal contribution of the report. The engineering geologic assessment includes evaluation of the effects of these geologic features upon the proposed development activity within the site and adjacent area, and consideration of the effects of these proposed modifications upon future geologic conditions, processes, and hazards. The assessment should cover with equal importance the possible onsite and offsite effects of the proposed development based on the engineering geology evaluation.

This section of the engineering geologic report is the synthesis of existing geologic data and the information obtained during site characterization as it relates to the proposed land use or development activities. The synthesis includes interpretation of the geologic information and appropriate analyses of site-specific data necessary to support the report conclusions and recommendations.

4.1 Engineering Geological Interpretation

Interpretation of the information gathering during background research and site characterization is a necessary part of the overall engineering geological assessment. The engineering geologic report should clearly identify areas of data interpretation and factual information. Often the

available data is insufficient to allow an unequivocal interpretation, and the concept of multiple working hypotheses should be utilized. Reasonable alternate interpretations of the available data should be discussed in the report, particularly if these alternative interpretations have significant consequences regarding the proposed development activities. In such instances, recommendations for additional data collection should be considered in order to resolve alternative interpretations.

4.2 Engineering Properties of Soil and Rock

A summary of the engineering properties of the soil and rock material encountered in the investigation should be included in the engineering geologic report. This summary should provide the basis for subsequent analyses. The engineering properties may be determined by analytical testing, or be estimated by correlation with index tests performed during the investigation, and should be documented in the engineering geologic report.

4.3 Analytical Analyses and Computer Modeling

Analytical methods for evaluation of slope stability or soil erosion should be appropriately used to support the conclusions and recommendations presented in the engineering geologic report. Analytical analyses can range from simple calculation based on a set of discrete equations to sophisticated computer modeling. Regardless of the form of the computations, the assumptions behind the analytical method being utilized should be described along with the required data and the limitations of the analytical results.

Generally, the results of an analytical computation or computer model are single valued such as a factor of safety or sediment yield and reflect the uncertainty of the input data. In many geological applications there may be a range of valid data values resulting from the accuracy of the data measurement techniques, as well as the inherent variability of geologic properties. Also in many instances, data input values may be based on interpretation of geologic conditions or may be based on generic information obtained from published literature. Consequently, analytical results that are critical to evaluation of site impacts should include a sensitivity analysis based on reasonable ranges of input data.

5. Conclusions and Recommendations

These sections of the engineering geologic report present the outcome of the study, based on the background research, site characterization, and data analyses and interpretations conducted as part of the scope of work.

5.1 Conclusions

The Conclusions section should be focused on the geologic constraints for the proposed land use or development activity of the site. This section should include a discussion of the results of the site characterization, data analyses and interpretations, including the uncertainties or ambiguities of this work. Special engineering geologic characteristics or concerns affecting proposed land use and development activities should be clearly presented in this section. Also, the potential

impacts of the development activities on geological conditions and processes, both onsite and offsite, should be addressed in this section. Limitations and potential risks related to the layout and construction of the proposed development such as location of roads and utilities, staging of grading and filling operations should be discussed in this section and cross-referenced in the recommendations section of the report.

5.2 Recommendations

The Recommendations section should provide specific items regarding site use and development and project designs that are the outcome of the site study, and the recommendations should be consistent with the report conclusions. Recommendations for mitigation approaches that address the limitations and potential risks associated with site development may be proposed as appropriate. This section may include recommendations regarding additional work needed to supplement the report, including but not limited to monitoring of geological conditions (i.e., groundwater, slope movement, settlement), review of plans and specifications, and construction monitoring.

B. PREPARATION OF AN ENGINEERING GEOLOGIC REPORT

The following topics are provided as a guide in the preparation of an engineering geologic report. Not all of these topics may need to be included in a particular report depending on the scope of the report and its intended application.

1. Report Format

The body of the engineering geologic report should include the items discussed above in the Content of an Engineering Geologic Report, as appropriate to the specific geologic study, and the date the report was submitted to the client. The engineering geologic report must address all of the requirements of the regulatory agency or agencies that will receive the report as part of their licensing or permitting process. For example, a local government may have specific requirements that must be addressed in an engineering geologic report that supports a land use application. A recommended practice is for the CEG to have qualified individuals review the report for technical content and editorial consistency before the report is finalized.

1.1 Illustrations

An engineering geologic report typically will include maps, annotated photographs, cross-sections, logs of subsurface explorations, field test results, geophysical test results, remotely sensed imagery, and laboratory test data. A vicinity location map identifies the project site in relation to known or familiar locations, and is important for report end-users in easily identifying the site locale. A detailed site map should show the existing and proposed site development, topographic contours and additional important information such as property boundaries, easements, etc.. The site map may be modified for use as a template for additional figures showing geologic features and conditions, locations of subsurface explorations and cross-sections, areas potentially affected by geologic hazards design drawings, or other pertinent data. The source date and origin of the information used in developing the report illustrations should

be referenced on the illustrations. Maps need to include North arrows and bar scales or other methods of dimensioning.

1.2 Appendices

Large bodies of data, such as laboratory test results, exploration logs, or the results of geophysical surveys, and explanatory keys should be presented in appendices to the report, and should be cross referenced in the body of the report. The results of data analyses, in particular computer model output, should also be presented in appendices. Large engineering geologic reports containing numerous illustrations and appendices should include a table of contents.

1.3 Report References

All published or other information not developed as part of the site characterization that is used in the report should be listed using standard bibliographic citations. Such information could include:

- Literature, maps, and records cited and reviewed;
- Aerial photographs or images interpreted, listing the type, scale, source, and index numbers etc.;
- Other sources of information, including well records, personal communications, or other data sources.

1.4 Report Limitations

The limitations section should briefly restate the location, intended purpose, intended audience of the report, and what tasks were accomplished in meeting these ends. The report limitations should include a statement regarding the limits of the intended use of the report, including scope and extent, and should restate any additional needs beyond the stated scope of work.

1.5 Signature and Seal

All final reports or other documents must be signed and stamped by the CEG who prepared and was in responsible charge of the engineering geology study and report, as required by ORS 672.605 and OAR 809 Divisions 20 and 50.

REFERENCES

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Wieczorek, G.F., 1984, Preparing a detailed landslide-inventory map for hazard evaluation and reduction: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 337–342.

Williamson, D.A., 1984, Unified rock classification system: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 345–354.

Subject: Geologic Hazard Overlay 14.21 amendment 7/8 public hearing
From: "Mona Linstromberg" <lindym@peak.org>
Date: 6/24/2019, 11:57 AM
To: "Derrick Tokos" <D.Tokos@NewportOregon.gov>
CC: "Jim Patrick" <jbpatrick@newportnet.com>, "Sherri Marineau" <S.Marineau@NewportOregon.gov>, "James Hanselman" <jj_oregon@yahoo.com>, "mike franklin" <mike@newportchowderbowl.com>, "'Lee Hardy'" <lee@yaquinabayproperties.com>, "Bob Berman" <birderbob@gmail.com>, "Bob Berman" <birderbob@gmail.com>, "Bill Branigan" <phantom41@gmail.com>, "Darlene & Rod Croteau" <croteau@charter.net>

CITY OF NEWPORT
JUN 25 2019
RECEIVED

Please enter the attached in the record.

Regards,

Mona Linstromberg

Sent via my totally safe HARD WIRED internet connection

Attachments:

Newport peer review final with attch.pdf 22.2 MB

June 24, 2019

Mona Linstromberg
831 E. Buck Creek Rd.
Tidewater, Oregon 97390
Family home: 1442 NW Spring St., Newport, Oregon 97365

Derrick Tokos
Newport Community Development Director
169 SW Coast Hwy
Newport, Oregon 97365

Re: May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21 Geologic Hazards Overlay July 8, 2019 Public Hearing

Please see May 29, 2019 Mark-up copy (Attch 1). **Other than** specific reference to a required site visit as I recommended (comment dated 2/25) with support by the Planning Commission at its 2/25 work session and Planning Commission approval of recommendations at its 2/25 regular session, the Mark-up seems a faithful rendition of the Commission's recommendations. At that work session, Mr. Tokos mentioned reaching out to Mr. Gless, an engineering geologist with Schlicker & Associates, for feedback. It is Mr. Gless's feedback I will next address. Please recall that Mr. Tokos's intention was to limit the code amendment not to have a general overhaul of NMC 14.21, though one may be needed [1].

See letter from Mr. Gless dated June 7, 2019 (Attch 2). His response to the Mark-up and Mr. Tokos's query about Mr. Gless's opinion of site visits caught me off guard at first. Since November 2017 and Mr. Lund's application (1-GP-18) for development on Spring St. in the Geologic Hazard Zone Overlay, I have reviewed multiple reports [2] by this firm and by Mr. Gless in particular. His standards and work appear to be in such high regard that he may attribute those same standards and work ethic to others when

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[1] OregonShores would most certainly engage in such a conversation.

[2] **Tax Lot 900, Map 11-11-5BB** – 1610 NW Spring St.
Engineering Geologic Hazards Investigation Schlicker & Assoc. 2003
Tax Lot 1700, Map 11-11-5BC - 1505 NW Spring St
Geotechnical and Subsurface Investigation Schlicker & Assoc. 2001
Tax Lot 1802, Map 11-11-05 BC 1409 NW Spring St.
Engineering Geologic Hazards Investigation Schlicker & Assoc. 2016
Tax Lot 1800, Map 11-11-05 BC Spring St.
Geologic Hazards Investigations Schlicker & Assoc. 2016

that may not necessarily be the case [3]. However, it is his reputation that caused me to consider his letter more thoroughly.

The following three underlined code citations correspond with Mr. Gless's June 17, 2019 review:

14.21.040 Exemptions (D): The amended code language is intended to forestall a repeat by others of the excessive work performed by Mr. Lund (1-GP-18) during the pre-development phase. If Mr. Gless's assessment is correct, I recommend the best way to curb excessive pre-development work is to assess fines similar to the existing code NMC 1.50.010 -- and to actually enforce it. The current amendment language tries to encourage oversight; my alternative is enforcement when the misdeed is done, thereby encouraging compliance in the future. The status quo clearly does not work.

14.21.060 Geologic Report Guidelines: This is where I believe Mr. Gless's comments verge on recommending a code overhaul. Absent an expert making specific technical recommendations for standards/requirements, the fallback position will be Oregon State Board of Geologist Examiners Guideline for Preparing Engineering Geologic Reports (Attch 3), overly broad [4] though it may be, and Newport regulatory regulations. Mr. Gless expresses concern for the owners and the city, which concern should extend to neighbors and the fragile coastal resources that are put at risk by development in the geologic hazard zone. I can only hope the "checklist" model recommended would result in geologic reports that provide **all information needed to support the report's conclusions and can be meaningfully peer reviewed**.

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[3] June 18, 1993 letter to Michael Shoberg, City Planner Newport from Land Conservation and Development Newport field office.
"Notice of Intent to Build in a Geologic Hazard Area" was posted on Lots 1, 2, 3, 4, and 5 of block 37 on N.W. Spring Street in Newport. Pursuant to Section 2-4-7.035 of the City of Newport Zoning Ordinance, the Department of Land Conservation and Development wishes to appeal the issuance of a geologic permit on this site. We are of the opinion that the applicant's geologic report does not adequately evaluate the cause, extent, and potential hazards on the site."

[4] The State Guideline may have few absolutes, but it does list and discuss professional standards. By way of example, see Guideline pg 6, II,A.1. "*Specific items that should be addressed...*" bullet #7: "*A description of prior work **on** the site **or** in the immediate area that has been **reviewed or relied upon** in the geologic investigation and preparation of the engineering geologic report.*" (emphasis added) See July 25, 2018 email (Attch 4) from Mr. Gless informing interested parties that his 2016 TL 1800 report was the more current and the 1991 report was out of date. TL 1800 was one of the three subject properties and the 1991 report was relied on by Lund's engineering firm. If an engineering geologist fails to incorporate an appropriate standard into the engineering geologist's report, a peer reviewer could make the case for its inclusion.

14.21.120 Peer Review within Active Landslide Zones: In Mr. Gless's first paragraph, he states "**(i)deally** all geologic reports would have sufficient information, organized in a logical fashion to adequately describe the site as it is related to the proposed development and any proposed construction and hazard mitigation." (emphasis added) In his second paragraph, he states "**(h)opefully,** the geologic report would be thorough enough that the reviewer does not believe a site visit is required." (emphasis added) What happens when the reports are not "ideal" (i.e. not sufficient information, etc.) and the report is not "thorough enough"? It is hard to prove a negative without a site visit. Err on the side of caution as not doing so could have dire consequences in an active slide area.

The following, from the record of 1-GP-18, illustrates how a site visit can enhance peer review:

> Ruth Wilmoth, C.E.G., P.E. in her August 15, 2018 Geotechnical Peer Review report (Attch 5) states "(e)vidence that supports the active landslide mapping includes: the disturbed terrain within the fallen landslide blocks indicative of recent slope movement; high contrast of lidar images that suggest landslide blocks that have had little time to erode since they last moved; tilted shore pine within the area of the planned new development; and historical distress to the two closest homes (roughly 15 ft north and 75 south of the project) on either side of the property caused by ground movement in the past 30 years or so."

Attachments 6 (1245 NW Spring St), 7 and 8 (1409 NW Spring St) are photos of the two homes referred to above. Invoices confirming work done on 1245 and 1409 NW Spring are attached (#9 and #10). The peer reviewer disclosed land movement on adjacent properties, as nothing was included in the report presented on behalf of the developer. **A site visit provides the opportunity to observe visual clues**. In January of this year, a "visual clue" was attached to an email (Attch 11) to Mr. Tokos and included in his February 22, 2019 Memo. This active landslide area stretches north and south and does not respect tax lot boundaries.

My experience with 1-GP-18 motivated me to approach Mr. Tokos about independent peer review, resulting in the proposed 14.21.120 Peer Review within Active Landslide Zones. My prior involvement in Lane County and the City of Eugene shape my understanding of the significance of such an independent review. Because those other than the developer don't stand to benefit financially, they often cannot afford the cost of such public interest technical reviews. Also, by having the City determine the professional who reviews the applicant's report, it is more likely the report will be accepted as impartial. In addition, the independent review process will help provide

clarity for the planning commissioners when they have to evaluate a geologic report that is outside their and staff's area of expertise.

Until the City decides to do a complete overhaul of 14.21, I recommend the approval of the proposed code amendment NMC 14.21 (Mark-up) with inclusion of a site visit as recommended by the Planning Commission at their regular February 25, 2019 meeting.

Please enter in the record.

Thank you for your attention.

Mona Linstromberg

Table of Attachments

May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards
(Deleted language shown in ~~strikethrough~~ and new language is underlined. Staff comments are preceded with the term "Staff" and are *italicized*.)

CHAPTER 14.21 GEOLOGIC HAZARDS OVERLAY

14.21.010 Purpose

The purpose of this section is to promote the public health, safety, and general welfare by minimizing public and private losses due to earth movement hazards and limiting erosion and related environmental damage, consistent with Statewide Planning Goals 7 and 18, and the Natural Features Section of the Newport Comprehensive Plan.

14.21.020 Applicability of Geologic Hazards Regulations

A. The following are areas of known geologic hazards or are potentially hazardous and are therefore subject to the requirements of Section 14.21:

1. Bluff or dune backed shoreline areas within high or active hazard zones identified in the Department of Geology and Mineral Industries (DOGAMI) Open File Report O-04-09 Evaluation of Coastal Erosion Hazard Zones along Dune and Bluff Backed Shorelines in Lincoln County, Oregon: Cascade Head to Seal Rock, Technical Report to Lincoln County, dated 2004.

2. Active or potential landslide areas, prehistoric landslides, or other landslide risk areas identified in the DOGAMI Open File Report O-04-09.

3. Any other documented geologic hazard area on file, at the time of inquiry, in the office of the City of Newport Community Development Department.

A "documented geologic hazard area" means a unit of land that is shown by reasonable written evidence to contain geological characteristics/conditions which are hazardous or potentially hazardous for the improvement thereof.

B. The DOGAMI Open File Report O-04-09 is not intended as a site specific analysis tool. The City will use DOGAMI Open File Report O-04-09 to identify when a Geologic Report is needed on property prior to development. A Geologic Report that applies to a specific property and that identifies a proposed development on the property as being in a different hazard zone than that identified in DOGAMI Open File Report O-04-09, shall control over

DOGAMI Open File Report O-04-09 and shall establish the bluff or dune-backed shoreline hazard zone or landslide risk area that applies to that specific property. The time restriction set forth in subsection 14.21.030 shall not apply to such determinations.

C. In circumstances where a property owner establishes or a Geologic Report identifies that development, construction, or site clearing (including tree removal) will occur outside of a bluff or dune-backed shoreline hazard zone or landslide risk areas, as defined above, no further review is required under this Section 14.21.

D. If the results of a Geologic Report are substantially different than the hazard designations contained in DOGAMI Open File Report O-04-09 then the city shall provide notice to the Department of Geology and Mineral Industries (DOGAMI) and Department of Land Conservation and Development (DLCD). The agencies will have 14 days to provide comments and the city shall consider agency comments and determine whether or not it is appropriate to issue a Geologic Permit.

(*Section amended by Ordinance No. 1601 (5-20-91) and then repealed and replaced in its entirety by Ordinance No. 2017 (8-17-2011).)

14.21.030 Geologic Permit Required

All persons proposing development, construction, or site clearing (including tree removal) within a geologic hazard area as defined in 14.21.010 shall obtain a Geologic Permit. The Geologic Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit required by the city.

Unless otherwise provided by city ordinance or other provision of law, any Geologic Permit so issued shall be valid for the same period of time as a building permit issued under the Uniform Building Code then in effect.

14.21.040 Exemptions

The following activities are exempt from the provisions of this chapter:

A. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;

B. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

C. Fill which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

D. Exploratory excavations under the direction and oversight of a registered engineering geologist or geotechnical engineer. A letter from the engineering geologist or geotechnical engineer outlining the scope of work shall be submitted before earthwork is commenced;

E. Construction of structures for which a building permit is not required;

F. Removal of trees smaller than 8-inches dbh (diameter breast height);

G. Removal of trees larger than 8-inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;

H. Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry;

I. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the area previously disturbed;

J. Installation of utility lines not including electric substations; and

K. Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard.

Staff: Sub-section D has been amended to require a letter outlining the scope of work before earthwork is commenced and to clarify that the engineering geologist or geotechnical

engineer is to provide oversight through the course of the exploratory excavation.

14.21.050 Application Submittal Requirements

In addition to a land use application form with the information required in Section 14.52.020, an application for a Geologic Permit shall include the following:

A. A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8-inches dbh (diameter breast height) proposed for removal; and

B. An estimate of depths and the extent of all proposed excavation and fill work; and

C. Identification of the bluff or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, a certified engineering geologist shall identify the hazard zone(s) within which development is proposed; and

D. A Geologic Report prepared by a certified engineering geologist, establishing that the site is suitable for the proposed development; and

E. An engineering report, prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), must be provided if engineering remediation is anticipated to make the site suitable for the proposed development.

14.21.060 Geologic Report Guidelines

Geologic Reports shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles and shall, at a minimum, contain the items outlined in the most recent edition of the Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologic Reports in Oregon~~," ."in use on the effective date of this section~~. Such reports shall address subsections 14.21.070 to 14.21.090, as applicable. For

oceanfront property, reports shall also address the "Geological Report Guidelines for New Development on Oceanfront Properties," prepared by the Oregon Coastal Management Program of the Department of Land Conservation and Development, in use as of the effective date of this section. All Geologic Reports are valid as prima facie evidence of the information therein contained for a period of five (5) years. They are only valid for the development plan addressed in the report. The city assumes no responsibility for the quality or accuracy of such reports.

Staff: Oregon State Board of Geologist Examiners guidelines are updated from time to time, with the most recent version dated 2014. Engineering geologists will use the most current version and the City code should reflect that practice.

14.21.070 Construction Limitations within Geologic Hazard Areas

A. New construction shall be limited to the recommendations, if any, contained in the Geologic Report; and

1. Property owners should consider use of construction techniques that will render new buildings readily moveable in the event they need to be relocated; and

2. Properties shall possess access of sufficient width and grade to permit new buildings to be relocated or dismantled and removed from the site.

14.21.080 Prohibited Development on Beaches and Foredunes

Construction of residential, commercial, or industrial buildings is prohibited on beaches, active foredunes, other foredunes that are conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding. Other development in these areas shall be permitted only if a certified engineering geologist determines that the development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves and is designed to minimize adverse environmental effects. Such a determination shall consider:

A. The type of use proposed and the adverse effects it might have on the site and adjacent areas;

B. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

C. Methods for protecting the surrounding area from any adverse effects of the development; and

D. Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.

14.21.090 Erosion Control Measures

In addition to completing a Geologic Report, a certified engineering geologist shall address the following standards.

A. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

B. Development plans shall minimize cut or fill operations so as to prevent off-site impacts;

C. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

D. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

E. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

F. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;

G. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty year frequency storm to suitable drainageways such as storm drains, natural watercourses, or drainage swales. In

no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure.

H. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;

I. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas;

J. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and

K. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities.

14.21.100 Storm water Retention Facilities Required

For structures, driveways, parking areas, or other impervious surfaces in areas of 12% slope or greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities ~~as~~ when specified by the City Engineer. The retention facilities shall be designed for storms having a ~~20~~25-year recurrence frequency. Storm waters shall be directed into

a drainage with adequate capacity so as not to flood adjacent or downstream property.

Staff: The Public Works Department settled on a more conservative 25-year design storm as the City standard after this code was last updated. They also do not require retention in all circumstances. The proposed changes reflect their current practices regarding storm water management.

14.21.110 Approval Authority

An application shall be processed and authorized using a Type I decision making procedure.

14.21.120 Peer Review within Active Landslide Zones

Upon receipt of an application for development within an active landslide zone, City shall refer the Geologic Report to a certified engineering geologist to perform a peer review during the 30-day period within which the application is reviewed for completeness. The peer reviewer shall confirm, in writing, that the Geologic Report was prepared in accordance with the requirements set forth in this Chapter. In the event the peer reviewer identifies the need for additional analysis or clarification, those comments shall be provided to the applicant so that they can be addressed by the Report's author.

In circumstances where a Geologic Report is accompanied by an engineering report , prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), that report shall be subject to peer review by an individual with equivalent qualifications in the same manner as described above.

City may require that a fee deposit be paid by the applicant to off-set the cost of the peer review, with the amount of the deposit being set by City Council resolution.

Staff: This section is drafted to provide for peer review in active landslide areas, as discussed at the 1/28/19 work session. The Commission expressed a preference that the professional be independent of the applicant, and since their feedback may result in revisions to the application, it is important that the review occur before an application is

deemed complete. A fee resolution would be prepared to address the fee deposit issue if this moves forward.

14.21.~~120~~130 Appeals of Geologic Permits

Any appeal from the issuance or denial of a Geologic Permit shall be filed within 15 calendar days of the date the city issues a final order as provided by Section 14.52.050. Appellants challenging substantive elements of a Geologic Report shall submit their own analysis prepared by a certified engineering geologist. Such report shall be provided within 30 days of the date the appeal is filed. A failure to submit a report within this timeframe is grounds for dismissal of the appeal.

14.21.~~130~~140 Certification of Compliance

No development requiring a Geologic Report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the city receives a written statement by a certified engineering geologist indicating that all performance, mitigation, and monitoring measures contained in the report have been satisfied. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the city must also receive an additional written statement of compliance by the design engineer.

14.21.~~140~~150 Removal of Sedimentation

Whenever sedimentation is caused by stripping vegetation, grading, or other development, it shall be the responsibility of the person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems and to return the affected areas to their original or equal condition prior to final approval of the project.

14.21.~~150~~160 Applicability of Nonconforming Use Provisions

A. A building or structure that is nonconforming under Section 14.32 of the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster shall be subject to the casualty loss provisions contained in Section 14.32 of the Zoning Ordinance. Application of the provisions of this section to a property shall not have the effect of rendering it nonconforming.

B. A building or structure that conforms to the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster may be replaced with a building or structure of up to the same size provided a Geologic Report is prepared by a certified engineering geologist. A Geologic Report prepared pursuant to this subsection shall adhere to the Geologic Report Guidelines outlined in subsection 14.21.030. All recommendations contained in the report shall be followed, however the report need not establish that the site is suitable for development as required in subsection 14.21.050(D). An application filed under this subsection shall be processed and authorized as a ministerial action by the Community Development Department.

H.G. Schlicker & Associates, Inc.
607 Main Street, Suite 200 · Oregon City, Oregon 97045
(503) 655-8113 · FAX (503) 655-8173

June 7, 2019

To: **Mr. Derrick Tokos, AICP**
Community Development Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365

Subject: **Review of May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards**

Derrick,

Please find below our comments related to the proposed regulatory language changes in the May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards.

14.21.040 Exemptions (D)

Requiring a letter from the engineering geologist or geotechnical engineer outlining the scope of work for exploratory excavations appears to be overkill as the exploratory excavations are almost always very small and disturb less than twenty-five cubic yards of disturbance permitted by 14.21.040(B). This requirement may often be accidently overlooked by the geotechnical community as it is not typical of other communities. It appears to us that this requirement will create a needless burden on the city's planning staff resources. Geotechnical work of this nature is already required by state law and rule to have oversight by an engineering geologist, geotechnical engineer, or civil engineer.

14.21.060 Geologic Report Guidelines

We suggest that rather than requiring geologic reports in Newport to meet both Newport regulatory language and the State's "Guidelines for Preparing Engineering Geologic Reports in Oregon" that the Newport requirements be met as they are specific to geologic hazards in Newport whereas the state guidelines are very general in nature and therefore overly broad. Having to strictly conform to both Newport regulatory requirements and the State guidelines makes it difficult to write a report that is both thorough and easily readable. Many content requirements in the State guidelines simply are not needed in the typical Newport Geologic Reports. Leaving any item in either the Newport regulatory language or the State guidelines out of a report, even if that item is not significant to the subject site, leaves the report open to needless appeal creating an expensive situation for

the owner and the city. Furthermore, it is difficult to write a report that "flows well" when trying to meet two different sets of content standards.

Ideally, the regulatory language can be used as the geologic report "content standards" in a format that closely matches the typical format of a consultant's report. In this way the regulatory language can be used as a "checklist" to determine if the report requirements have been met. This would allow the City to more easily defend an approval or denial of the geologic report.

14.21.120 Peer Review within Active Landslide Zones

Peer review requirements vary greatly throughout the United States and here in Oregon. Usually, the peer review is completed by comparing a report to one or more sets of regulatory language, report content standards, checksheets, and peer review guidelines. Ideally all geologic reports would have sufficient information, organized in a logical fashion to adequately describe the site as it is related to the proposed development and any proposed construction and hazard mitigation.

A site visit may or may not be considered necessary by the peer reviewer. Hopefully, the geologic report would be thorough enough that the reviewer does not believe a site visit is required. The reviewer must be careful to remain in a review capacity and not work themselves into a position where it appears the reviewer is providing development recommendations or forcing the consultants to provide any particular recommendations. A site visit, and the review comments based on it, tends to place the reviewer and the City in a position of greater liability for the project as they now have first-hand knowledge of the site.

In general, it is the role of the peer reviewer to assure the City that the rules and regulations have been met and that the standards of professional care and practice in place at the time of the report preparation have been met. Typically, this should not require a site visit.

Best of Luck,

H.G. SCHLICKER AND ASSOCIATES, INC.

J. Douglas Gless, MSc, RG, CEG, LHG
President/Principal Engineering Geologist

JDG:mgb

EXHIBIT
F-5

Oregon State Board of Geologist Examiners

Guideline for Preparing Engineering Geologic Reports

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OREGON
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ENGINEERING GEOLOGIST

Second Edition
May 30, 2014

Disclaimer

This guidance document is intended to provide general information about the Oregon State Board of Geologist Examiners (Board) and its regulation of the public practice of geology in Oregon. This guidance document does not replace, supersede, or otherwise override statutes, rules, orders, or formal policies pertaining to the public practice of geology. The information herein does not and is not intended to make or create any new standard, requirement, or procedure for which rulemaking or other legal process is required. This guidance document is not intended to address every possible situation or question regarding the Board's regulation of the public practice of geology. This document is updated and revised at the Board's discretion. This document does not and is not intended to provide legal advice. No rights, duties, or benefits, substantive or procedural, are created or implied by this guidance document. The information in this guidance document is not enforceable by any person or entity against the Board. In no event shall the Board, or any employee or representative thereof, be liable for any damages whatsoever resulting from the dissemination or use of any information in this guidance document.

For more information about the Board, visit: http://www.oregon.gov/OSBGE/Pages/index.aspx.

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I. BACKGROUND ON THE BOARD & PURPOSE FOR GUIDELINE

A. BOARD MISSION & AUTHORITY

The Oregon Board of Geologist Examiners (OSBGE, or the Board) was created in 1977 to oversee the registration (licensing) of persons who engage in the public practice of geology in the State of Oregon.

The mission of the Board is to help assure the health, safety, and welfare of Oregonians with regard to the public practice of geology through:

1. Licensing of those engaged in the public practice of geology;
2. Response to complaints from the public and members of the profession;
3. Public education directed at appropriate regulatory communities;
4. Cooperation with closely related boards and commissions;
5. Attention to ethics; and
6. Systematic outreach to counties, cities, and registrants

The Board is authorized under Oregon Revised Statute (ORS) 672.515, and operates in accordance with Oregon Administrative Rules (OAR) Division 809. The Board's responsibility is to govern the practice of geology and to insure that ORS 672.505 to ORS 672.705, ORS 672.991 and (OAR) Division 809 are administered fairly and effectively throughout the state. The Board is a semi-independent state agency subject to ORS 182.454 to ORS 182.472.

ORS 672.505 defines geology as:

- That science that treats of the earth in general;
- Investigation of the earth's crust and the rocks and other materials that compose it; and
- The applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of humanity.

The Board regulates the public practice of geology, including engineering geology as a specialty certification. The laws require those who publically practice geology to be registered with the Board unless specifically exempted. A "Geologist" means a person engaged in the practice of geology, and an "Engineering Geologist" means a person who applies geologic data, principles and interpretation to naturally occurring materials so that geologic factors affecting planning, design, construction and maintenance of civil engineering works are properly recognized and utilized.[1] No person, other than a Registered Geologist (RG) or a Certified Engineering Geologist (CEG) shall provide or prepare for the public practice of geology any geologic maps, plans, reports, or documents except as specifically exempted in ORS 672.535. The Board maintains a list of geologists currently registered to legally engage in the public practice geology in the State of Oregon, as well as a sub-list of CEG's who can engage in the practice of engineering geology.

[1] ORS 672.505(3) and (4)

B. PURPOSE FOR GUIDELINE

The following guideline is intended to encourage best practices in the field of engineering geology in Oregon. Such best practices optimize and support protection of Oregonians and their interests. To this end, the guideline is intended as a tool for the preparation, use and review of engineering geologic reports and geotechnical reports prepared by engineering geologists licensed in the State of Oregon. These reports should include sufficient data, analysis, and interpretation regarding geologic materials, structure, processes, and history to support conclusions, identify potential risks, and establish recommendations regarding the proposed activity, design, modification, or use of the site. This guideline proposes recommended contents and suggested formats for reports and attempts to incorporate the major topics normally encountered in such studies. This guidance does not include a theoretical or technical background to each area of engineering geology addressed. Possession of the technical proficiencies required to prepare such reports is the responsibility of the CEG author. The actual scope of services documented in an engineering geologic report or a geotechnical report will vary depending on the level of detail, accuracy, and complexity needed for the intended application.

The term "geotechnical" as used in this guideline is a term for applied scientific work involving soil and rock mechanics, geology, geophysics, hydrology or related sciences as applied to the solution of civil works problems. The field of geotechnics is practiced by both engineering geologists and geotechnical engineers. A few examples of geotechnics work are the prediction, prevention or mitigation of natural hazards such as landslides and rockslides and the application of soil, rock and groundwater mechanics to the design of earthen or other man-made structures. This guideline does not address geotechnics work by professional engineers as the Board does not regulate the practice of engineering. This guideline focuses on engineering geology work by CEGs.

A CEG produces reports that are sometimes interchangeably called engineering geologic reports and geotechnical reports. A CEG also provides the engineering geology content of a geotechnical engineering report. A report containing engineering geologic interpretation must be signed and stamped by a CEG pursuant to OAR 809 Divisions 020 and 050. A report containing work by a CEG and geotechnical engineer should be signed and stamped by both professionals and include a description of individual responsibilities for the work addressed in the report. From here on out, the guideline uses the terminology of engineering geology report to refer to any report involving engineering geology work that is prepared by a CEG.

Considering that a CEG must become a RG first, the CEG may also work in areas of geology beyond engineering geology and contribute to or prepare other types of geologic reports, such as hydrogeologic reports and mineral resource evaluation reports. Such geologic work is not addressed in this guideline. See the Board's separate guidelines on geologic reports and hydrogeologic reports.

1. Registrants

This guideline provides a general list of items that could be included in an engineering geologic report. All elements of this guideline should be considered during the preparation and review of reports prepared by engineering geologists. The guideline does not include systematic descriptions of all available techniques or topics, nor is it suggested that all techniques or topics necessarily be applied to every project. Because of the wide variation in size and complexity of projects and scope of work, this guideline is intended to be flexible, and the CEG's report should always be tailored to the specific project. For example, not all topics covered in this guideline would be applicable to small projects or low-risk sites.

2. Report End Users and Reviewers

End users and reviewers of engineering geologic reports can use this guideline in their reading, review, and utilization of a particular report for their proposed project. However, this guideline is not intended as a "checklist" for the contents of any particular engineering geologic report. The actual scope of services and topics presented in a particular engineering geologic report will vary depending on the level of detail, accuracy, and complexity needed for the intended project. Each report should include sufficient data, analyses, and interpretation regarding geologic materials, structure, processes, and history to support conclusions regarding potential risks, considerations, and recommendations regarding the proposed activity, modification, or use of the site.

C. ACKNOWLEDGEMENTS

This guidance document was prepared for the Board by Stephen P. Palmer, RG, CEG (E2155) under the auspices of LEI Engineering and Surveying, LLC. The second edition has been substantially updated compared to the 1990 first edition based on input from Board members, Board registrants, Board staff, and other public participants. In addition, this guideline has been prepared after review of other guidelines and recommendations for geologic and engineering geologic reports developed by other state and provincial agencies, registration and licensing authorities, and professional organizations. A list of these publications is presented in the reference section of this document.

Palmer worked with a peer review panel of Oregon CEGs in crafting the document: Susan Bednarz (E1681), Charles Clough (E1865), Curtis Ehlers (E1610), Thomas Horning (E1131), and Christopher Humphrey (E1692). Palmer also assisted the Board with revisions in response to public comments received on a draft posted for public review. The Board recognizes the contributions of Palmer, the review panel CEGs and all Oregon RGs and others who took the time to weigh in on this guideline. Through comments and recommendations, these individuals made a significant contribution to development of this guideline. Board Member Peter Stroud (E0975) assisted with editing.

II. REPORT CONTENT AND PREPARATION

A. CONTENT OF AN ENGINEERING GEOLOGIC REPORT

The following topics are provided as a guide for the content of an engineering geologic report and should be considered and addressed in detail where essential to support interpretations, analyses, designs, conclusions, and recommendations. A CEG may not need to address all of these topics in a particular report, as there is a wide range in the level of detail, accuracy, and complexity needed in reports depending on the intended application.

1. Introduction

Each report should include an introductory section containing adequate background information to inform the reader of the purpose for the engineering geologic work and report. Specific items that should be addressed in the introduction include:

- The purpose and objectives of the engineering geologic investigation and report, including the level of the study (i.e., feasibility, reconnaissance, preliminary, final.);
- The client or party that commissioned the report.
- The time period over which the investigation was performed;
- The location of the site with specific reference to a map included within the report that shows the site in context of known geographic features such as roads and water bodies;
- A description of the proposed land use or development activities needing an engineering geologic study, including the regulatory framework and requirements that are addressed by the report;
- The defined scope of work for the engineering geologic investigation and report, including specific tasks that were performed as part of the work;
- A description of prior work on the site or in the immediate area that has been reviewed or relied upon in the geologic investigation and preparation of the engineering geologic report.

2. Physiographic Setting and Regional Geology

A description of the physiographic setting of the site and regional geology provides a framework for the evaluation of site specific conditions. The discussion of physiographic setting may include:

- Physical characteristics such as topography, climatic conditions, vegetative characteristics, latitude and longitude, township-range-section, landmarks, political boundaries, geomorphic features of the province, faults and seismicity, natural resources, water bodies, drainage patterns, and other physical features of the site and surrounding area;
- Anthropomorphic data, such as land use(s), community development, and effects of human activity.

The discussion of regional geology may include:

- Nature and source of available published geologic reports or maps;
- Stratigraphy and lithology of regional formations or geologic map units;
- Geologic structure, including folding, faulting, and discontinuity or fracture characteristics;
- Historical seismicity;
- Surface water features and regional drainage patterns;
- Groundwater conditions, including aquifer systems and aquitard units;
- Geomorphology and surficial processes;
- Regional geologic hazard identification and mapping.

3. Site Characterization

Site characterization is intended to provide adequate and accurate information to support the interpretations, analyses, designs, conclusions, and recommendations addressing the scope and objectives of the engineering geologic report. Site characterization is at the heart of the engineering geologic study and is a crucial part of the geologic investigation and report. The focus of the engineering geologic report is the potential effects and impacts of geologic conditions on the proposed civil development. The following items provide an example of a comprehensive scope for the site characterization section of an engineering geologic report.

3.1 Site Description

A description of the project site is crucial in providing the report reader with an understanding of the conditions that influence the proposed activity addressed by the engineering geologic study. A detailed map (or maps) of the site should be used as reference for the site description section. The site description should include:

- Topographic and geomorphic conditions of the site and vicinity, including minimum and maximum elevations, total relief, slope grade, form, and aspect;
- Vegetation, including ground and tree cover, density, etc.;
- Surface water features, including existing drainage pattern, streams, ponds, seeps and springs, areas of wet or soft ground, etc.;
- Existing development such as buildings, structures, roadways, and utilities and evidence of past development activities like areas of cut or fill or abandoned foundations;
- Previous site uses that could impact the proposed uses of the site;
- Evidence of past or current geologic processes and hazards, such as soil creep, landsliding, soil erosion, settlement, channel avulsion and migration, and flooding;
- Known or suspected engineering geologic conditions and geologic and seismic hazards that could impact the proposed land use or development activities, including a statement regarding past performance of existing facilities in the immediate vicinity;
- Photographs showing relevant site features;
- Known or suspected soil or groundwater contamination.

3.2 Site Investigation

A wide range of methods may be employed in characterization of the site, and the following topics are not intended as a comprehensive listing. Other appropriate methods or approaches should be utilized if appropriate.

- Remote sensing, including aerial photographic interpretation, time sequential photographs, lidar data, infrared imagery, and other available data;
- Field reconnaissance and geologic mapping, with discussions of results referencing previous mapping of the site, if available;
- Subsurface investigation, including hand auger, test pit, trench, and drilling explorations, with locations of subsurface explorations shown on a detailed site map and complete logs of the explorations provided with the report, along with a key to interpretation of the logs;
- Installation and monitoring of in situ instrumentation such as slope inclinometers, piezometers, extensometers and settlement devices, and borehole accelerometers;
- Measurements performed during field reconnaissance and subsurface exploration, and laboratory testing of collected samples;
- Geophysical surveys such as by seismic refraction/reflection, electrical resistivity, ground penetrating radar, or magnetometer.

3.2.1 Remote Sensing

The report should include the source and date of any remote sensing data utilized by the CEG in preparation of the report. Interpretations and analyses of remote sensing data should be described in the report text and presented on detailed maps of the site.

3.2.2 Field Reconnaissance, Geologic Mapping, and Subsurface Investigation

The CEG should describe all field mapping, subsurface exploration, and field and laboratory testing procedures including but not necessarily limited to surface geologic reconnaissance, drilling, trenching, and geophysical survey. Results of the field reconnaissance and geologic mapping of the site area should be done at a scale that shows sufficient detail to adequately define the existing geologic conditions. Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base map should be included on each map or photo. For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, and independent geologic mapping will be necessary. If published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes that have occurred since map publication. It may be necessary for the engineering geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.

The nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials, including groundwater, exposed and inferred within the area should be discussed in the report with reference to appropriate figures presenting these data and interpretations. These reference figures could include but not necessarily be limited to detailed site maps, cross-sections, and fence diagrams. The report should typically include one or more appropriately positioned and scaled cross-sections to show subsurface

relationships. A clear distinction should be made between observed and inferred features and relationships.

3.2.3 Geologic Descriptions

The report should contain brief but complete descriptions of all geologic rock, soil units, any fill, and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. In providing descriptions and characterization of rock and soil units and the mapping of this data, the CEG should consider using the following standardized methodologies:

- The Unified Soil Classification System (USCS) is a standard procedure for classification of soil material in engineering studies (ASTM, 2009, 2011, or the current revision);
- The Unified Rock Classification System (URCS) provides a systematic and reproducible method of describing rock weathering, strength, discontinuities, and density applicable in engineering studies (Williamson, 1984; ASTM, 2008, or the current revision);
- The International Society for Rock Mechanics (ISRM) Basic Geotechnical Description of Rock Masses provides a standard method to communicate an overall assessment of rock masses, particularly with regard to its anticipated mechanical behavior (ISRM, 1981, or the current revision).
- Engineering geology mapping can be done using the Genesis-Lithology-Qualifier (GLQ) system (Keaton, 1984), rather than the conventional Time-Rock system commonly used in geologic mapping. The GLQ system promotes communication of geology information to non-geologists;
- Systems for mapping landslide deposits are described by Wieczorek (1984), McCalpin (1984), and Resource Inventory Committee, (1996).

The engineering geologic report should include documentation of laboratory and field testing including any geophysical surveys with reference to standard testing procedures. Test or survey procedures, data, and analytical results should be presented in report appendices. Subcontractors responsible for the field and laboratory testing, data processing, and data interpretation should be identified in the report.

The following items may be useful as a general, though not necessarily complete, guide for geologic rock and soil unit descriptions.

Rock Units

- Identification and classification of rock types, using either published classification systems (e.g., URCS or ISRM) or with documentation of other classification procedures used;
- Relative and/or absolute age and, where possible, correlation with named formations and other stratigraphic units;
- Surface and subsurface expression, areal distribution, and thickness;
- Pertinent physical characteristics such as color, grain size, mineralogy, nature of stratification, strength, and variability;
- Distribution and extent of zones of weathering; significant differences between fresh and weathered rock;

- Structural features and their characteristics, including stratification, jointing and fractures, foliation, schistosity, faults, and folds;
- Geomorphic expression of bedrock lithologies and structural features;
- Other significant engineering geologic characteristics or concerns.

Soil Units

- Identification and classification of soil material, using either published classification systems (e.g., USCS) or with documentation of other classification procedures used ;
- Distribution, dimensional characteristics, variations in thickness, degree of soil development, soil genesis, evidence of past disturbance and fill placement, and surface expression;
- Pertinent physical and engineering characteristics such as color, grain size, grain lithology, density/consistency, cementation, structure, strength, thickness, and variability;
- Special physical or chemical features, which could include indications of volume change or instability, such as expansive clays or peat, corrosivity, or the presence of contamination;
- Other significant engineering geologic characteristics or concerns.

3.2.4 Surface and Groundwater Occurrence

- Distribution, occurrence, and variation in surface waters such as drainage courses, ponds, swamps, springs, seeps, and aquifers;
- Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, perching condition, aquicludes and aquitards, flow direction, gradient, recharge and discharge areas;
- Relationship of surface and groundwater to topographic and geologic features;
- Evidence for past occurrence of water at localities now dry including vegetation, mineral deposits, erosional and depositional features from flash flooding, or historical records;
- Seasonal or long-term variations in surface and groundwater, including fluctuations in groundwater elevation, recharge and discharge of surface water features, response of surface and groundwater due to variations in precipitation, temperature, or other factors;
- Potential impacts of existing or future surface water or shallow groundwater conditions ;
- Riverine or coastal flood potential, including 100-year and 500-year flood elevations, mean high water, and other pertinent data;
- Potential for channel migration or avulsion;
- Other significant engineering geologic characteristics or concerns.

3.2.5 Seismicity and Earthquake Occurrence

- Description of the seismotectonic setting of the site area, including size, frequency, and location of historic earthquakes, and understanding of prehistoric earthquake activity;
- Potential for site to be affected by surface rupture, including sense and amount of displacement, and width of surface deformation zone;
- Potential for area to be affected by regional tectonic deformation;
- Estimated bedrock ground motion, either probabilistic and/or deterministic, as appropriate, and site class modification of bedrock ground motion;
- Potential for tsunami and seiche flooding, including estimated tsunami inundation area, water elevation, and velocities as applicable;

- Potential for area to be affected by earthquake-induced ground failures, including duration of shaking, soft soils, liquefaction, cyclic soil strength reduction, lateral spreading, settlement, and landslides;
- Special engineering geologic characteristics or concerns affecting proposed land use and development activities.

3.2.6 Mass Wasting and Erosional Occurrence

- Review of State guidelines and local ordinance requirements regarding mass wasting hazards and grading;
- Review of available information on mass wasting and soil erosion, including landslide hazard mapping, geologic maps, and National Resource Conservation Service soil mapping;
- Review of remote sensing data as described in Section 3.2 of this guideline;
- Review of current site conditions relevant to mass wasting and soil erosion, including detailed descriptions of landslides or areas of soil erosion affecting the site; Description of geomorphic features indicative of mass wasting and soil erosion, including anomalous landforms, vegetative indicators, and distress to existing structures and utilities;
- Review of surface mapping and subsurface investigation results of mass wasting features, including earth materials, groundwater conditions, extent and rates of movement, etc.;
- Potential for coastal erosion or riverine bank erosion to affect long-term slope stability;
- Other significant engineering geologic characteristics or concerns identified during site investigation.

4. Assessment of Engineering Geological Conditions and Factors

Assessment of existing engineering geological conditions, processes, and hazards, and their related risks and impacts with respect to the intended use of the site constitutes the principal contribution of the report. The engineering geologic assessment includes evaluation of the effects of these geologic features upon the proposed development activity within the site and adjacent area, and consideration of the effects of these proposed modifications upon future geologic conditions, processes, and hazards. The assessment should cover with equal importance the possible onsite and offsite effects of the proposed development based on the engineering geology evaluation.

This section of the engineering geologic report is the synthesis of existing geologic data and the information obtained during site characterization as it relates to the proposed land use or development activities. The synthesis includes interpretation of the geologic information and appropriate analyses of site-specific data necessary to support the report conclusions and recommendations.

4.1 Engineering Geological Interpretation

Interpretation of the information gathering during background research and site characterization is a necessary part of the overall engineering geological assessment. The engineering geologic report should clearly identify areas of data interpretation and factual information. Often the

available data is insufficient to allow an unequivocal interpretation, and the concept of multiple working hypotheses should be utilized. Reasonable alternate interpretations of the available data should be discussed in the report, particularly if these alternative interpretations have significant consequences regarding the proposed development activities. In such instances, recommendations for additional data collection should be considered in order to resolve alternative interpretations.

4.2 Engineering Properties of Soil and Rock

A summary of the engineering properties of the soil and rock material encountered in the investigation should be included in the engineering geologic report. This summary should provide the basis for subsequent analyses. The engineering properties may be determined by analytical testing, or be estimated by correlation with index tests performed during the investigation, and should be documented in the engineering geologic report.

4.3 Analytical Analyses and Computer Modeling

Analytical methods for evaluation of slope stability or soil erosion should be appropriately used to support the conclusions and recommendations presented in the engineering geologic report. Analytical analyses can range from simple calculation based on a set of discrete equations to sophisticated computer modeling. Regardless of the form of the computations, the assumptions behind the analytical method being utilized should be described along with the required data and the limitations of the analytical results.

Generally, the results of an analytical computation or computer model are single valued such as a factor of safety or sediment yield and reflect the uncertainty of the input data. In many geological applications there may be a range of valid data values resulting from the accuracy of the data measurement techniques, as well as the inherent variability of geologic properties. Also in many instances, data input values may be based on interpretation of geologic conditions or may be based on generic information obtained from published literature. Consequently, analytical results that are critical to evaluation of site impacts should include a sensitivity analysis based on reasonable ranges of input data.

5. Conclusions and Recommendations

These sections of the engineering geologic report present the outcome of the study, based on the background research, site characterization, and data analyses and interpretations conducted as part of the scope of work.

5.1 Conclusions

The Conclusions section should be focused on the geologic constraints for the proposed land use or development activity of the site. This section should include a discussion of the results of the site characterization, data analyses and interpretations, including the uncertainties or ambiguities of this work. Special engineering geologic characteristics or concerns affecting proposed land use and development activities should be clearly presented in this section. Also, the potential

impacts of the development activities on geological conditions and processes, both onsite and offsite, should be addressed in this section. Limitations and potential risks related to the layout and construction of the proposed development such as location of roads and utilities, staging of grading and filling operations should be discussed in this section and cross-referenced in the recommendations section of the report.

5.2 Recommendations

The Recommendations section should provide specific items regarding site use and development and project designs that are the outcome of the site study, and the recommendations should be consistent with the report conclusions. Recommendations for mitigation approaches that address the limitations and potential risks associated with site development may be proposed as appropriate. This section may include recommendations regarding additional work needed to supplement the report, including but not limited to monitoring of geological conditions (i.e., groundwater, slope movement, settlement), review of plans and specifications, and construction monitoring.

B. PREPARATION OF AN ENGINEERING GEOLOGIC REPORT

The following topics are provided as a guide in the preparation of an engineering geologic report. Not all of these topics may need to be included in a particular report depending on the scope of the report and its intended application.

1. Report Format

The body of the engineering geologic report should include the items discussed above in the Content of an Engineering Geologic Report, as appropriate to the specific geologic study, and the date the report was submitted to the client. The engineering geologic report must address all of the requirements of the regulatory agency or agencies that will receive the report as part of their licensing or permitting process. For example, a local government may have specific requirements that must be addressed in an engineering geologic report that supports a land use application. A recommended practice is for the CEG to have qualified individuals review the report for technical content and editorial consistency before the report is finalized.

1.1 Illustrations

An engineering geologic report typically will include maps, annotated photographs, cross-sections, logs of subsurface explorations, field test results, geophysical test results, remotely sensed imagery, and laboratory test data. A vicinity location map identifies the project site in relation to known or familiar locations, and is important for report end-users in easily identifying the site locale. A detailed site map should show the existing and proposed site development, topographic contours and additional important information such as property boundaries, easements, etc.. The site map may be modified for use as a template for additional figures showing geologic features and conditions, locations of subsurface explorations and cross-sections, areas potentially affected by geologic hazards design drawings, or other pertinent data. The source date and origin of the information used in developing the report illustrations should

be referenced on the illustrations. Maps need to include North arrows and bar scales or other methods of dimensioning.

1.2 Appendices

Large bodies of data, such as laboratory test results, exploration logs, or the results of geophysical surveys, and explanatory keys should be presented in appendices to the report, and should be cross referenced in the body of the report. The results of data analyses, in particular computer model output, should also be presented in appendices. Large engineering geologic reports containing numerous illustrations and appendices should include a table of contents.

1.3 Report References

All published or other information not developed as part of the site characterization that is used in the report should be listed using standard bibliographic citations. Such information could include:

- Literature, maps, and records cited and reviewed;
- Aerial photographs or images interpreted, listing the type, scale, source, and index numbers etc.;
- Other sources of information, including well records, personal communications, or other data sources.

1.4 Report Limitations

The limitations section should briefly restate the location, intended purpose, intended audience of the report, and what tasks were accomplished in meeting these ends. The report limitations should include a statement regarding the limits of the intended use of the report, including scope and extent, and should restate any additional needs beyond the stated scope of work.

1.5 Signature and Seal

All final reports or other documents must be signed and stamped by the CEG who prepared and was in responsible charge of the engineering geology study and report, as required by ORS 672.605 and OAR 809 Divisions 20 and 50.

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EXHIBIT B-9

Derrick Tokos

From: J. Douglas Gless <hgsa@teleport.com>
Sent: Wednesday, July 25, 2018 4:51 PM
To: Mona Linstromberg; Bill Lund
Cc: Derrick Tokos
Subject: Spring Street Slide Development

Dear Mona and Bill,
Both of you have contacted HG Schlicker and Associates, Inc. regarding a proposed development at Tax Lots 1800, 1900, and 1903; Map 11-11-05BC along Spring Street in Newport, Oregon. Please find three reports that we have completed through the years in that immediate vicinity at this Dropbox link https://www.dropbox.com/sh/cvv95b3m8eda1vx/AAABuXd8b-sjznzD9larRkQwa?dl=0 . Essentially, we have identified the area as what appears to be active landslide, meaning that we have seen what appears to be evidence of the area having had movement of the ground within the last few decades. In the past couple of decades there has been a buildup of the dunes at the toe of the slope which has had a stabilizing influence on the site but we don't believe it would be prudent to rely on the assured continuation of this dune growth as these loose dune sands are highly susceptible to erosion by storm waves and rip currents. Any substantial erosion of the dunes would have a large impact on stability models that don't account for the eroded condition.

Of the three reports, the 2016 report pertaining to TL 1800 should be considered the most up to date. That report basically concludes that the Spring Street Slide is active as mapped by DOGAMI. The 1991 report prepared by Herbert Schlicker for Mr. Hal Smith should be considered greatly out of date and I cannot agree with the conclusions drawn in it relative to the statement, "the landslide rests on a nearly level surface and is not capable of further sliding."

It is important to understand that any landslide that toes out at beach level and is subject to erosion is typically at a greater risk than non-landslide oceanfront ground. It is also important to note that nearly any landslide can be stabilized, however it is frequently not cost effective.

I hope this information helps in your decision making process.

Respectfully,
Doug

J Douglas Gless, RG, CEG, LHG
President/Principal Engineering Geologist
H.G. Schlicker & Associates, Inc.
607 Main Street, Suite 200
Oregon City, Oregon 97045
(503) 655-8113 Office
(503) 655-8173 Fax
(503) 807-3510 Cell
hgsa@teleport.com
www.hgschlicker.com

1

Of the three reports,the 2016 report pertaining to TL 1800 should be considered the more up to date. That reports basically concludes that the Spring Street Slide is active as mapped by DOGAMI. The 1991 report prepared by Herbert Schlicker for Mr. Hal Smith should be considered greatly out of date and I cannot agree with the conclusion drawn in it relative to the statement, "the landslide rests on a nearly level surface and is not capble of further sliding."

Attachment 4 (footnote 4)
Gless, July 25, 2018 email to interested parties 1-GP-18

Columbia Geotechnical, PO Box 87367, Vancouver, WA 98687 / (360) 944-7397 / fax (360) 944-6985 / columbiageo@comcast.net

August 15, 2018

CG18-1311

Mona Lindstromberg
831 East Buck Creek Road
Tidewater, OR 97390

Geotechnical Peer Review
Report by K & A Engineering, Inc.
Geotechnical Engineering Report and Geologic Hazard Assessment
Tax Lots 1800, 1900, 1903
West of NW Spring St roughly between NW 13th St and NW 14th St
Newport, Oregon 97365

This peer review has been completed at your request. I have reviewed the report that was provided, namely the June 29, 2018, Geotechnical Engineering Report and Geologic Hazard Assessment by K & A Engineering, Inc., including the appendices A through E. I also reviewed easily accessible reports and government websites that provide general and site-specific data that relates to the geology, groundwater, natural hazards, and the erosional history of the site and area. My comments are based on the information provided in the documents reviewed and my experience, limited in scope by the hours of our contract. I expect that a more thorough review would present additional comments.

Background
The scope of this report is to provide a summary of my review of the report referenced above that I understand was submitted to the City of Newport by the property owner, Bill Lund, in order to pursue the development of the three individual lots for new residential structures; duplexes are planned for the two southern lots (1900 and 1903) and a single-family house is planned for the north lot (1800).

The reason for this peer review is to provide an independent professional opinion based on the data that was presented and referenced in the owner's geotechnical report; although I did make a single site visit, no additional soil explorations or testing were performed as a part of this review.

Discussion
To provide easy reference to the owner's geotechnical report, this discussion is organized following the format of that report.

Section of K&A report	Page number	Comments
Executive Summary	2	In the summary of their scope, the last bullet item is "Pertinent hazard zones such as the 100-year flood zone and elevation." It appears in this summary that the site was not reviewed with consideration of the mapped Spring Street Landslide which is identified in the 2004 Oregon Department of Geology and Mineral Industries publication OFR O-04-09; the site is mapped in that report as a Holocene Active Landslide (Als). Evidence that supports the active landslide mapping includes: the disturbed terrain within the fallen landslide blocks indicative of recent slope movement; high contrast of lidar images that suggest landslide blocks that have had little time to erode since they last moved; tilted shore pine within the area of the planned new development; and historical distress to the two closest homes (roughly 15 ft north and 75 south of the project) on either side of the property caused by ground movement in the past 30 years or so. Later in the report, there is reference to "landslide debris extending to depths as

Attachment 6

1245 NW Spring St. - foundation work (sloughing behind house)

Attachment 7

1409 NW Spring St. - cracks in driveway (see invoice)

Attachment 8

1409 NW Spring ST - close-up driveway

78

PUBLIC SAFETY DEPARTMENT

CITY OF NEWPORT OREGON PERMIT

INSPECTIONS DIVISION

FOR OFFICE USE ONLY

Permit 007730 X

Land Zone R-2 Type of Building V No. Families Residence Occ. Cert. No.

Motel Occupancy Group R-3 Apartment Sprinkler System or Fire Walls Required

Permit To Repair Dwg

Address 1245 NW Spring

Tax Lot 3700 Map 11-11-5 BC Lot 5 Block 34 Addition OceanView

BUILDING PERMIT

Application is made to: Erect ☐ Alter ☐ Repair ☒ Relocate ☐ Demolish ☐ Reroof ☐ Building ☐ Structure ☐ Residence ☒ Fill ☐ Excavation ☐ Construction ☒ Demolition ☐

Entire work when completed will cost, including labor and materials: $ 2,500 Fee $ 38.50

EXCAVATION & FILL

Excavation ☐ Cubic yds. Fill ☐ Cubic yds. Fee $

MISCELLANEOUS PERMITS

5% STATE $ 1.93

Sewer $ Curb Cut $ Sign SQ. FT. Plan Review Fee $

Sidewalk $ Temporary Structures $ Temporary Sign SQ. FT.

Driveway $ Street Opening $ Other $

TOTAL FEES → $ 40.43

Owner Ivan Sundstrom Address 1409 NW Spring Phone 5-9653

Builder Same Address Phone

Builder's Board No. Exp. Date

Architect Lynn McKibben Address Phone

Geologist Address Phone

DESCRIPTION OF WORK Replace West 12 ft of foundation with Engineered foundation & footing

8/3/88 oked footing (Glee) 8/4/88 oked found. (Glee)

ONLY WORK DESCRIBED ABOVE INCLUDED IN PERMIT

I agree to build according to above description, plans and specifications and the Ordinances and Codes of the City of Newport.

Variance No. Date

Applicant

APPLICATION RECEIVED	PLANS CHECKED BY PLAN EXAMINER		PERMIT ISSUED
	Approved	Not Approved	
By Elin Stevens	By		By Elin Stevens
Date 7/29/88	Date		Date 7/29/88

Final Date

Attachment 9 - 1245 NW Spring St., invoice foundation work pg 1/1

City of Newport
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
Fax: 541-574-0644

Building Permit

Residential Structural

Permit Number: 625-17-000490-STR

IVR Number: 625047946828

Web Address: www.newportoregon.gov

Email Address: permits@newportoregon.gov

Permit Issued: August 01, 2017

TYPE OF WORK

Category of Construction: Other

Type of Work: Other

Submitted Job Value: $28,608.00

Description of Work: Repair to exiting foundation

JOB SITE INFORMATION

Worksite address
1409 NW SPRING ST
Newport, OR

Parcel
11-11-05-BC-01802-00

Owner: POSEIDON REALTY TRUST &

Address: COCHRAN IRENE TRUSTEE
APALACHICOLA, FL 32329

LICENSED PROFESSIONAL INFORMATION

Business name	License	License number	Phone
KEM LLC	CCB	146906	541-688-7177

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at www.buildingpermits.oregon.gov

Schedule by phone call 1-888-299-2821 use IVR number: 625047946828

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

PERMIT FEES

Fee Description	Quantity	Fee Amount
Structural building permit fee		$245.05
Structural plan review fee		$159.28
State of Oregon Surcharge - Bldg (12% of applicable fees)		$29.41
	Total Fees:	$433.74

Permits must be posted in clear view on the worksite. Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION - CALL BEFORE YOU DIG: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (877) 668-4001 or dial 811.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

Note
Tax lot 900, Map 11-11-5 BB, 1610 NW Spring St, Pinnacal Engineering, Inc. 2007 report: "tension cracks indicative of imminent sliding were observed in the driveway surface east of and adjoining the subject lot."

Attachment 10 - 1409 NW Spring St.

Derrick Tokos

From: PRIEST George * DGMI <George.PRIEST@oregon.gov>
Sent: Wednesday, January 23, 2019 4:36 PM
To: Derrick Tokos
Cc: ALLAN Jonathan * DGMI; BURNS Bill * DGMI
Subject: JumpOff Joe pictures from lunch walk today
Attachments: JumpOff Joe active slide new head scarp opening up 1-23-19.jpg; JumpOff Joe active slide incipient graben in old foundation 1-23-19.jpg

Hi, Derrick,

I am temporarily working again with DOGAMI and was out for a walk when I happened by the JumpOff Joe area at the end of 11th Street. I took the attached pictures showing a new down dropped block in the old foundation and a new slide scarp opening up landward of the old foundation but seaward of the guardrail. The scarp is quite fresh (not eroded), so it must be very recent.

Dr. Jonathan Allan here at the DOGAMI Field Office thought you might be interested.

Regards,
George R. Priest, Ph.D, CEG
Oregon Dept. of Geology and Mineral Industries
Newport Coastal Field Office
George.priest@oregon.gov

Attachment 11

West of NW Spring and 12th Streets Intersection: Email and Photo Recent Earth Movement

H.G. Schlicker & Associates, Inc.
607 Main Street, Suite 200 · Oregon City, Oregon 97045
(503) 655-8113 · FAX (503) 655-8173

June 7, 2019

To: **Mr. Derrick Tokos, AICP**
Community Development Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365

Subject: **Review of May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards**

Derrick,

Please find below our comments related to the proposed regulatory language changes in the May 29, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards.

14.21.040 Exemptions (D)

Requiring a letter from the engineering geologist or geotechnical engineer outlining the scope of work for exploratory excavations appears to be overkill as the exploratory excavations are almost always very small and disturb less than twenty-five cubic yards of disturbance permitted by 14.21.040(B). This requirement may often be accidently overlooked by the geotechnical community as it is not typical of other communities. It appears to us that this requirement will create a needless burden on the city's planning staff resources. Geotechnical work of this nature is already required by state law and rule to have oversight by an engineering geologist, geotechnical engineer, or civil engineer.

14.21.060 Geologic Report Guidelines

We suggest that rather than requiring geologic reports in Newport to meet both Newport regulatory language and the State's "Guidelines for Preparing Engineering Geologic Reports in Oregon" that the Newport requirements be met as they are specific to geologic hazards in Newport whereas the state guidelines are very general in nature and therefore overly broad. Having to strictly conform to both Newport regulatory requirements and the State guidelines makes it difficult to write a report that is both thorough and easily readable. Many content requirements in the State guidelines simply are not needed in the typical Newport Geologic Reports. Leaving any item in either the Newport regulatory language or the State guidelines out of a report, even if that item is not significant to the subject site, leaves the report open to needless appeal creating an expensive situation for

the owner and the city. Furthermore, it is difficult to write a report that "flows well" when trying to meet two different sets of content standards.

Ideally, the regulatory language can be used as the geologic report "content standards" in a format that closely matches the typical format of a consultant's report. In this way the regulatory language can be used as a "checklist" to determine if the report requirements have been met. This would allow the City to more easily defend an approval or denial of the geologic report.

14.21.120 Peer Review within Active Landslide Zones

Peer review requirements vary greatly throughout the United States and here in Oregon. Usually, the peer review is completed by comparing a report to one or more sets of regulatory language, report content standards, checksheets, and peer review guidelines. Ideally all geologic reports would have sufficient information, organized in a logical fashion to adequately describe the site as it is related to the proposed development and any proposed construction and hazard mitigation.

A site visit may or may not be considered necessary by the peer reviewer. Hopefully, the geologic report would be thorough enough that the reviewer does not believe a site visit is required. The reviewer must be careful to remain in a review capacity and not work themselves into a position where it appears the reviewer is providing development recommendations or forcing the consultants to provide any particular recommendations. A site visit, and the review comments based on it, tends to place the reviewer and the City in a position of greater liability for the project as they now have first-hand knowledge of the site.

In general, it is the role of the peer reviewer to assure the City that the rules and regulations have been met and that the standards of professional care and practice in place at the time of the report preparation have been met. Typically, this should not require a site visit.

Best of Luck,

H.G. SCHLICKER AND ASSOCIATES, INC.

J. Douglas Gless, MSc, RG, CEG, LHG
President/Principal Engineering Geologist

JDG:mgb

Attachment "F"
1-Z-19

Derrick Tokos

From: DLCD Plan Amendments <plan.amendments@state.or.us>
Sent: Thursday, May 30, 2019 10:38 AM
To: Derrick Tokos
Subject: Confirmation of PAPA Online submittal to DLCD

Newport

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.
Local File #: 1-Z-19
DLCD File #: 002-19
Proposal Received: 5/30/2019
First Evidentiary Hearing: 7/8/2019
Final Hearing Date: 8/5/2019
Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: The Newport Planning Commission will hold a public hearing on Monday, July 8, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 1-Z-19, revisions to the Newport Municipal Code (NMC) 14.21, Geologic Hazards Overlay, to clarify requirements related to exemption for exploratory excavations, update report guidelines and storm water standards, and require peer review of reports in active landslide areas. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above). **J28 (34-28)**

GARDENING

Continued from page 3

That's a lot, but having too many dahlias isn't the problem. The predicament came when Wray dug some up to share at a plant sale. When he planted replacements, he added blood meal to the hole, a common practice for dahlia growers.

"I was so pleased with myself," Wray said. "I got up the next morning, and every one of the new tubers had been dug up and were lying neatly next to the hole and all the blood meal had been licked up by our German shorthair dogs. I was somewhat disgusted with myself."

No worries, though. He replanted using organic fertilizer and got away with that. Lesson learned.

Jesse Garcia, a new master gardener who has gardened for 25 years, decided to counter slip-ups by the others with a success. He explained to the group a technique he heard on the radio: growing potatoes above ground.

He first puts down light-weight weed cloth where the potatoes will be planted. Then he fashions 2-foot-tall cylinders of chicken wire held up with rebar stakes. He puts in a layer of leaves (or straw), the potatoes and another layer of leaves. As the leaves decompose, Garcia adds more. It's important, he said, to keep the potatoes covered or the sun will ruin them. In eight to nine weeks, he's harvesting ping-pong-sized potatoes. A little longer, and they grow into bakers.

When he carefully harvests his potatoe

98

the leaves to
Garcia finds the
at the size he wa
them out, cover
ers back up an
He continues
every three to fo

"The nice thi
this method," h
the potatoes do
dirty. And if you
potato, you hav
the plant or t
potatoes. If you

PUBLIC NOTICES

LEGAL DEADLINES:

WEDNESDAY EDITION:
5:00pm Thursday

FRIDAY EDITION:
5:00pm Tuesday

TRUSTEE'S NOTICE OF SALE

TRUSTEE'S NOTICE OF SALE TS No.: 081831-OR Loan No.: ******7142 Reference is made to that certain trust deed (the "Deed of Trust") executed by GEORGE V. THOMAS AND TANNIS M. THOMAS, AS TENANTS BY THE ENTIRETY, as Grantor, to WESTERN TITLE & ESCROW COMPANY, as Trustee, in favor of WELLS FARGO FINANCIAL OREGON, INC., as Beneficiary, dated 6/8/2007, recorded 6/14/2007, as Instrument No. 200708590, in the Official Records of Lincoln County, Oregon, which covers the following described real property situated in Lincoln County, Oregon: LOT 10, BLOCK 4, SEABREEZE, COUNTY OF LINCOLN, STATE OF OREGON. APN: R418314 // 08-11-21-CD-01200 Commonly known as: 75 BREEZE ST DEPOE BAY, OR 97341 The current beneficiary is: Wells Fargo USA Holdings, Inc. Both the beneficiary and the trustee have elected to sell the above-described real property to satisfy the obligations secured by the Deed of Trust and notice has been recorded pursuant to ORS 86.752(3). The default for which the foreclosure is made is the grantor's failure to pay when due, the following sums: Delinquent payments (Dates) 12/13/2018-05/13/2019; Total $6,901.26; Late charges: $0.00; Beneficiary Advances: $808.50; Total Required to Reinstate: $7,709.76; Total Required to payoff: $81,059.17. By reason of the default, the beneficiary has declared all obligations secured by the Deed of Trust immediately due and payable, including: the principal sum of $76,075.75 together with interest thereon at the rate of 9.54 % per annum, from 11/13/2018 until paid, plus all accrued late charges, and all trustee's fees, foreclosure costs, and any sums advanced by the beneficiary pursuant to the terms and conditions of the Deed of Trust Whereof, notice hereby is given that the undersigned trustee, CLEAR RECON CORP, whose address is 111 SW Columbia Street #950, Portland, OR 97201, will on 10/1/2019, at the hour of 10:00 AM, standard time, as established by ORS 187.110, AT THE OLIVE STREET ENTRANCE TO THE LINCOLN COUNTY COURTHOUSE, 225 W OLIVE STREET, NEWPORT, OR 97365, sell at public auction to the highest bidder in the form of cash equivalent (certified funds or cashier's check) the interest in the above-described real property which the grantor had or had power to convey at the time it executed the Deed of Trust, together with any interest which the grantor or his successors in interest acquired after the execution of the Deed of Trust, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.778 has the right to have the foreclosure proceeding dismissed and the Deed of Trust reinstated by payment to the beneficiary of the entire amount then due (other than the portion of principal that would not then be due had no default occurred), together with the costs, trustee's and attorneys' fees, and curing any other default complained of in the Notice of Default by tendering the performance required under the Deed of Trust at any time not later than five days before the date last set for sale. Without limiting the trustee's disclaimer of representations or warranties, Oregon law requires the trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale. In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes plural, the word "grantor" includes any successor in interest to the grantor as well as any other persons owing an obligation, the performance of which is secured by the Deed of Trust, the words "trustee" and "beneficiary" include their respective successors in interest, if any. Dated: 5/20/2019 CLEAR RECON CORP 111 SW Columbia Street #950 Portland, OR 97201 Phone: 858-750-7600 866-931-0036 Sheila Domilos, Authorized Signatory of Trustee. J28 JY05 JY12 JY19 (16-19)

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: The Newport Planning Commission will hold a public hearing on Monday, July 8, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 1-Z-19, revisions to the Newport Municipal Code (NMC) 14.21, Geologic Hazards Overlay, to clarify requirements related to exemption for exploratory excavations, update report guidelines and storm water standards, and require peer review of reports in active landslide areas. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above). J28 (34-28)

NOTICE OF A PUBLIC HEARING

CITY OF NEWPORT: The Newport Planning Commission will hold a public hearing on Monday, July 8, 2019, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 2-Z-19, revisions to the Newport Municipal Code (NMC) 9.10 and 9.15.010 to set out a permitting process for pruning and removing trees from the public right-of-way, and establishes that street trees installed with new subdivisions must adhere to the tree plan. Pursuant to Newport Municipal Code (NMC) Section 14.36.010, the Commission must find that the change is required by public necessity and the general welfare of the community in order for it to make a recommendation to the City Council that the amendments be adopted. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above). J28(35-28)

NOTICE OF SHERIFF'S SALE #19-0806

On July 30, 2019, at the hour of 10:00 a.m., at the Lincoln County Sheriff's Office, 225 W Olive St., Rm 203, in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemption, in the real property commonly known as: 306 NW 59th Street, Newport, OR 97365. The court case number is 16CV41910, Cit Bank, N.A., plaintiff(s) vs. Ronald L. Sperry, personal representative of the Estate of Linda E. Cracknell; and all other persons, parties, or occupants unknown claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint herein, adverse to Plaintiff's title, or any cloud on Plaintiff's title to the Property defendant(s). This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to http://www.oregonsheriffssales.org/county/lincoln/
J28 JY05 JY12 JY19 (40-19)

FORECLOSURE SALE

The Storage Place, 4822 S Coast Hwy South Beach, OR. 97366. Starting at 4:00 PM on 7-12-2019 for unit #77 rented by Carla Keenan and #90 rented by Samantha Keeling.
J28 JY05 (41-05)

FORECLOSURE SALE

South Beach Mini Storage, 4844 S Coast Hwy South Beach, OR 97366. Starting at 4:00 PM on 7-12-19 for unit #A-9 rented by Jerry Houston.
J28 JY05 (42-05)

City of Newport

Community Development Department

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director

Date: July 3, 2019

Re: Continuance of Public Hearing on File 2-Z-19 Related to the Pruning and Removal of Trees within Road Rights-of-Way and on Public Property

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The City Manager has asked that we make further changes to the draft ordinance, namely as it relates to the process of removing hazard trees within rights-of-ways. This will require revisions to NMC Chapter 8.10, Nuisances, and may also impact Chapter 14.17 of the Zoning Ordinance governing clear vision areas. As this request was made on July 2nd, we have not had time to prepare the necessary amendments and would like to make the new language available to the Planning Commission as part of the hearings process. Therefore, staff respectfully requests that the Commission continue the public hearing to 7:00 pm on July 22, 2019. That should provide us enough time to update the draft ordinance.