PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, July 22, 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.

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1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of July 8, 2019.
Draft PC Work Session 07-08-19.pdf

2.B Approval of the Planning Commission Regular Session Meeting Minutes of July 8, 2019.
Draft PC Minutes 07-08-19.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 Deliberations and Possible Recommendation on File No. 1-Z-19: NZO Amendments to NMC Chapter 14.21 Geologic Hazards Overlay.
Staff Memo.pdf
Linstromberg Email.pdf
Public Testimony Prior to 7-8-19 Hearing.pdf
Staff Report for 7-8-19 Hearing.pdf

5. PUBLIC HEARINGS

5.A File No. 2-Z-19 (Continuation): Newport Municipal Code Amendments Related to the Pruning, Removal, and Planting of Trees within Roads Rights-of-Way and on Public Property.
File 2-Z-19.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
July 8, 2019
6:00 p.m.

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

Planning Commissioners Absent: Jim Hanselman, and Bill Branigan (*all excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri.

Public Members Present: Meg Reed, 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. No unfinished business.

3. New Business.

A. Review Framework for a New Tsunami Hazard Overlay Zone. Tokos reviewed his staff memo on the framework for the tsunami hazard overlay zone and results from the last legislative session for House Bill (HB) 3309.

Meg Reed, Coastal Shore Specialist for the Department of Land Conservation and Development (DLCD) addressed the Commission. Reed explained that they had been working with coastal communities to update their land use regulations. She noted that there had been three tsunami inundation areas created that she would speak about at the meeting. Reed reviewed a handout that she shared with the Commission, initiated by the Coastal Caucus, that explained HB 3309. Tokos said the handout provided an explanation on why the new legislation was created. He noted that what the Commission would be deciding was if they wanted to limit or prohibit certain uses in the tsunami inundation zones. Hardy asked if the City could have stronger restrictions than the State. Tokos confirmed they could. Franklin asked how the rules applied to existing buildings. Reed said the rules would only affect new building.

Franklin asked if retirement and assisted living facilities would fall under the hospital category if the area was subject to the XXL inundation zones. Cotton explained they wouldn't. They would fall under the special occupancy structures in Section 1.100 (3)(D). Franklin asked if under the current rules, would a new addition being built at the Whaler Hotel have a timeframe to build. Tokos said that if the Commission elected to go with Large, this property would be outside of that zone. The Commission needed to look at what was reasonable within the boundary and what they wanted to restrict. He thought Large was a reasonable way to go. Capri asked how many had been Large. Reed explained that there were four that were Large or above, one at the boundary between Medium and Large, and the rest were Small or Medium. There were two that were XL, and there had never been an XXL. Franklin asked if the City did nothing, could someone rebuild if there was a fire. Tokos said they would have to meet current code. They would be allowed to rebuild under the nonconforming code even if the City imposed restrictions. Cotton noted that Section 4.12 (4)(a)(iv) applied to just schools, and was not the Performing Arts Center or something like that.

Cotton continued reviewing the DLCD model code with the Commission. She stated this was an opportunity for Newport to make it mandatory. It would create goals for the hazards sections of the Comprehensive Plan, the Transportation System Plan update, and for signage. She wanted to see if the Commission was receptive to the model code. The Commission was in general agreement of being receptive of it. Reed explained they

suggested adopting XXL in the model code and it wouldn't apply to prohibited use, it would only apply to the requirement for evacuation improvements or any new land divisions. A new subdivision, for example, would be required to put in signage to direct people to high ground or require them to put in sidewalks or something to make sure there were connections to existing routes. This was why the DLCD recommended XXL as the boundary to the zones and then the City could put discretionary restrictions in place. Patrick suggested requiring builds in Large zones to do certain upgrades. A discussion ensued regarding how best to categorize different uses in Large to XL boundaries.

Cotton stated that most of the communities that have adopted the essential facilities had gone with XXL. She asked if the Commission needed more information on what was in or out of Newport, or if they wanted to give more flexibility. Berman thought it would be good to know what was in or out. Reed noted that unless it was specifically built to withstand a tsunami, they considered the location would be destroyed in a big event. She noted there was a use exception that if someone showed strategic need they could allow certain uses. Franklin was in favor of expanding to just south of the bridge for emergency services so they had assistance. Tokos said outside of a new pump station down south, there wasn't anything needed for services. He said what he was hearing was that the Commission would like to see a proposal that set a boundary with prohibitions on uses to be on a Medium to Large scale, and an XXL for site improvement requirements for development. The Commission was in general agreement with this. Tokos said a map would be put together to show where the existing essential facilities and special occupancy facilities were. Cotton thought the language for exceptions would be a good thing to keep.

Cotton asked for input on adding regulations for residential uses and hotels/motels. Patrick thought that if they were talking about residential, the South Beach State Park should be included. Berman thought it was important to include RV parks that were expanding. He thought the limitations needed to apply to essential services such as fire, police and the hospital. Cotton said what she heard was the consensus was to take out residential and hotels/motels. Patrick wanted to also include utility installations so they continue after tsunami inundations. To address this, Tokos suggested looking at the engineering tsunami load standards to see if there was anything in them that was appropriate for utilities to at least increase the chances they would withstand a tsunami.

Cotton noted that one of the general polices was to request a tsunami hazard and enclosure statement for new development in tsunami hazard areas. This would let developers know what they are getting into. Cotton noted that North Bend did a good job of emphasizing that developers knew what they were doing and it was a danger. Tokos asked if there had been a conversation on including this on real estate disclosure forms. Reed said it wasn't included and currently it asked if there were any know geologic hazards. They would have to disclose if there was an earthquake, not tsunami. Cotton would put maps together and include an inventory list. She said what she heard was there was good support of increased evacuation pathways and signage.

Reed reviewed the Beat the Wave maps and said the publication would be coming in August. She showed maps for the Bayfront, Agate Beach, Nye Beach, and South Beach State Park. She explained that South Beach was a challenging area to evacuate, and new trails and signage could help with this. Reed pointed out that there were some large dunes in the South Beach State Park that could be used as higher ground for a large event. The Commissioners didn't think it was a good message to suggest people utilize the dunes as high points. Reed said a technical publication would be available in August. DOGAMI was working on a public piece that would be coming out the next year.

B. **<u>Review Draft Public Parking Facilities Element to the Newport Comprehensive Plan.</u>** Tokos reviewed his staff memo on the parking facilities element and said it was recommended by the study advisory committee. He noted that this committee had just disbanded. What was presented was a policy guidance for the Comprehensive Plan and policy to establish a standing committee. Tokos explained that the Study Committee was recommending the start of the legislative process. He reported that the thought was to initiate metering and permitting in the Bayfront first. Nye Beach would be an expanded discussion and metering for the area would be revisited at a later date. Tokos reported that the Study Committee agreed to postpone metering outside of the Bayfront. Capri asked what the payback period was for meters. Tokos would bring this information back to the Commission. Berman noted that there wasn't any guidance on who should be on

the committee in the ordinance. Tokos said this was done intentionally. The discussions reduced the number of members from nine members to seven. The discussion was to allow some flexibility to allow committees to change over time based on what they were struggling with. Berman asked if any city officials would be included. Tokos said there would be a City Council liaison, but they wouldn't be a voting member.

A discussion ensued regarding rules for duplexes, accessory dwelling units, and tiny homes and when the Commission would be working on implementing these rules.

Meeting adjourned at 6:59 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
July 8, 2019

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

Planning Commissioners Absent: Jim Hanselman, and Bill Branigan (*all 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 7:04 p.m. On roll call, Commissioners Hardy, Berman, Franklin, and Patrick were present.

2. Approval of Minutes.

A. Approval of the Planning Commission Work and Regular Session Meeting Minutes of June 10, 2019.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to approve the Planning Commission work and regular session meeting minutes of June 10, 2019 with minor corrections. The motion carried unanimously in a voice vote.

3. Citizen/Public Comment. Gary Ripka addressed the Commission concerning the draft Public Parking Facilities to the Newport Comprehensive Plan. He said he was in favor of meters on the Bayfront. He explained that as a fisherman parking was limited on the Bayfront and meters would be a way to get more parking and generate capital on the Bayfront. Ripka thought that metering needed to be done in small steps.

Franklin asked if fishermen would pay for permits if they were put in place. Ripka thought they would and noted the Advisory Committee talked about a permit costing around $75-$100 per year. Franklin asked if they were open to a seasonal pass for workers in all the parking districts. Ripka said parking demands weren't so much a seasonal thing anymore and was more year round. Berman asked if there had been discussion regarding reconfiguration of gear storage for parking. Ripka said they did walkthroughs to figure this out. They determined this wouldn't gain anything and it would be more of a hardship for the boats.

4. Action Items.

A. Elect New Planning Commission Vice-Chairman.

MOTION was made by Commissioner Berman, seconded by Commissioner Hardy to appoint Bill Branigan as the Newport Planning Commission Vice-Chairman. The motion carried unanimously in a voice vote.

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

MOTION was made by Commissioner Hardy, seconded by Commissioner Berman to initiate the legislative process to add a Public Parking Facilities Element to the Newport Comprehensive Plan. The motion carried unanimously in a voice vote.

5. Public Hearings. At 7:15 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File No. 1-Z-19.

Tokos gave his staff report concerning amendments to the NMC Chapter 14.21 Geologic Hazards Overlay. He wanted to acknowledge the public comments that were submitted to the Commission at the meeting from the Oregon Shores Conservation Coalition, Matt and Lisa Thomas, Christine Schneller, Robert Earle, Elaine Karnes, and Mona Linstromberg. Tokos thought it was justified to make the changes reflected in his report.

Franklin asked if the secondary party in a peer review had anything at stake in the game as a result of their decision or agreeance to. Tokos said their professional certification was there and if they performed a peer review and there was an issue with the development, they would be a part of it as the report author. Hardy said Doug Gless of H.G. Schlicker and Associates made a point of referring to the liability of the peer reviewer, the original geo technical engineer, and the City. She questioned why Gless was worried about liability but not didn't think it was necessary to do a site visit to verify data. Hardy objected to Gless' objection of a site visit requirement.

Berman asked if there were any efforts to update active landslide areas based on new LIDAR data. Tokos said they would be adding things such as the NE 70th Street where there was a FEMA buyout and the City had to purchase a dozen homes there because of a landslide. There was language in the ordinance to add any subsequent information discovered after the original maps were prepared. Tokos said in terms of the active landslide blocks prepared by the State, he was unaware of any new mapping that they did that would change, modify or expand those boundaries. Once this information was made available, the City would want to consider it.

Public Comments: Mona Linstromberg addressed the Commission. She appreciated all the work the staff and Commission put into this process. She asked the Commission to approve the code amendments with an amendment to include a requirement that a peer reviewer perform a site visit and require them to have access to the site. She thought it was a good step forward and suggested the Commission consider a study in the future to overhaul things.

Franklin asked if the project on Lee Street had went to peer review and the other peer reviewer didn't do a site visit, would they have missed something major. Mona said yes and noted how Gless had done a peer review there that noted pertinent observations that were not mentioned by the applicant's engineering geologist. A site visit would review the homes and other areas where there would be cracks that would indicate imminent landslides.

Linstromberg reminded the Commission that the Oregon Shores Conservation Coalition public comment letter requested that the hearing be kept open for seven days. She requested this as well.

Hearing closed at 7:27 p.m.

MOTION was made by Commissioner Franklin, seconded by Commissioner Berman to hold the record open for seven days and continue deliberations on the public hearing for File No. 1-Z-19 to the July 22, 2019 Planning Commission regular session meeting. The motion carried unanimously in a voice vote.

B. **File No. 2-Z-19**.

Tokos reported the hearing was requested to be continued because the City Manager had asked to have some additional changes done to the nuisance code before the Commission made a decision on File No. 2-Z-19.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to continue the public hearing for File No. 2-Z-19 to the July 22, 2019 Planning Commission Regular Session Meeting. The motion carried unanimously in a voice vote.

Franklin asked if the right-of-way permit addressed sidewalks. Tokos said they weren't addressing sidewalks as part of this record. Existing language said that property owners were responsible for maintenance of sidewalks.

6. **New Business.** None were heard.

7. **Unfinished Business.** None were heard.

8. **Director Comments.**

Tokos said at the upcoming City Council meeting they would be accepting the regional housing report the City did with the County and others. A work session would be set up to talk about HB 2001 allowing townhouses in city residential areas. This would be reviewed as on legislative packet of changes that picked up a number of different items.

Tokos noted that the City would recommend hiring a contractor for short-term rental enforcement. This firm would be under contract once the short-term rental renewals were up in August. The newly hired Community Service Officer would be starting on August 5th. The City was currently under the renewal process for short-term rentals. Tokos reported there had been a waitlist established for new vacation rentals. The city wasn't issuing new vacation rental licenses at that time but would be issuing new home shares and bed and breakfast licenses. Berman asked if August 15th was a hard deadline for renewals. Tokos explained the owners had to submit their applications by this date and would then have about 30 days to get the applications complete. Berman asked if the city would know on August 15th how many would be renewing. Tokos confirmed that anyone who didn't submit their renewal by August 15th would have their licenses closed.

Franklin asked if there were any new applications for Planning Commission members. Tokos would check with the City Manager's office.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:40 p.m.

Respectfully submitted,

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Sherri Marineau
Executive Assistant

City of Newport

Community Development Department

Memorandum

To: Planning Commission

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

Date: July 18, 2019

Re: Deliberations and Possible Action on Proposed Amendments to NMC Chapter 14.21, Relating to the City of Newport's Geologic Hazards Land Use Regulations

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In response to a request by the Oregon Shores Conservation Coalition, the Planning Commission provided a seven day open record period for additional public comment following the public hearing it held on July 8, 2019. One comment was submitted during the open record period, that being an email from Mona Linstromberg (enclosed).

The Commission established July 22, 2019 at 7:00 pm as the date and time it would consider materials in the legislative record and new testimony as part of its deliberations on the proposed amendments. As noted in the staff report, the Commission is charged with providing a recommendation to the City Council regarding whether or not the proposed amendments as drafted, or with changes, are necessary and further the general welfare of the community.

In addition to Ms. Linstromberg's email, I have enclosed public testimony received in advance of the July 8th public hearing, along with a copy of the planning staff report.

Attachments

Email from Mona Linstromberg, dated July 13, 2019
Public testimony submitted prior to the July 8, 2019 public hearing
Staff Report for July 8, 2019 public hearing

Derrick Tokos

From: Mona Linstromberg <lindym@peak.org>
Sent: Saturday, July 13, 2019 1:19 PM
To: 'Lee Hardy'; Jim Patrick; James Hanselman; mike franklin; Bill Branigan; Bob Berman
Cc: Derrick Tokos; Sherri Marineau
Subject: 1-Z-19 open record period

Greetings: at the July 8 public hearing, Lee Hardy was receptive to including a required site visit to the proposed amendment and, during the February 25 work session (starting at the six minute mark), everyone else seemed to be on board as well. Please consider making a motion supporting the staff recommended approval INCLUDING an amendment to the motion requiring a site visit as part of the independent peer review protocol. In addition, direct staff to include language ensuring access to the subject property. If that amended motion fails, then a motion can be made to approve the original (May 29 mark-up) as proposed.

Thank you for your attention and consideration,
Mona Linstromberg

Sent via my totally safe HARD WIRED internet connection

OREGON SHORES

CONSERVATION COALITION

July 8, 2019

City of Newport Planning Commission
c/o Community Development Director Derrick Tokos
Newport Community Development Department
169 SW Coast Hwy
Newport, Oregon 97365

Via Email to: D.Tokos@NewportOregon.gov

Re: File No. 1-Z-19, Amendments to Newport Municipal Code ("NMC") Chapter 14.21 Geologic Hazards Overlay
Comments of Oregon Shores Conservation Coalition

Dear Chair Patrick and Planning Commission members:

Please accept these comments from the Oregon Shores Conservation Coalition and its members (collectively "Oregon Shores") to be included in the evidentiary record for File No. 1-Z-19. Oregon Shores is a non-profit organization dedicated to protecting the natural communities, ecosystems, and landscapes of the Oregon coast while preserving the public's access to these priceless treasures in an ecologically responsible manner. Our mission includes assisting local residents in land use matters and other regulatory processes affecting their coastal communities, and engaging Oregonians and visitors alike in a wide range of advocacy efforts and stewardship activities that serve to protect our state's celebrated public coastal heritage.

For nearly half a century, Oregon Shores has been an active public interest participant in legislation, policy, and regulatory processes related to land use and shoreline management in the State of Oregon. We have offered comments and testimony on a number of previous development proposals in the City of Newport, from proposed condominium developments within the Jump-Off Joe landslide complex in the early 1980s to a more recent proposal just north of the area on NW Spring Street. This latter proposal led to the initiation of the proposed amendments currently under consideration. We hope to lend our knowledge of and experience

with coastal land use and development within the City of Newport to support an appropriate and informed decision on the following proposed amendments to NMC Chapter 14.21:

1. **NMC 14.21.040(D) – Exemptions:** Amendment requiring a letter from an engineering geologist or geotechnical engineer outlining the scope of work associated with exploratory excavations.

2. **NMC 14.21.060 – Geologic Report Guidelines:** Amendment requiring Geologic Reports to contain, at a minimum, the items outlined in the most recent edition of the Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologic Reports in Oregon."

3. **NMC 14.21.100 – Storm water Retention Facilities Required:** Amendment requiring that retention facilities, when use is specified by the City Engineer, be designed for storms having a 25-year recurrence frequency.

4. **NMC 14.21.120 – Peer Review within Active Landslide Zones:** New section requiring peer review of reports for development proposals in active landslide areas during the 30-day application completeness review period.

As discussed below, our comment generally supports the view that it would reasonable for the Commission to conclude these changes are necessary and further the general welfare of the community. Pursuant to NMC 14.52.090(D) and ORS 197.763(6), Oregon Shores requests that the Planning Commission leave the record open to allow for submission of additional evidence, arguments, or testimony regarding this case file for at least seven days following the Monday, July 8, public hearing.[1] Please notify us of any further decisions, reports, or notices issued in relation to File No. 1-Z-19.

I. Background

A. Initiation of the Proposed Amendments and Standard for Approval

At its January 28, 2019 work session, the Newport Planning Commission ("Commission") considered a request by Mona Linstromberg, a Newport property owner, to make targeted amendments to the Geologic Hazards Chapter of the NMC to, among other changes, require peer review of geologic reports in active landslide hazard areas.[2] The Planning Commission agreed to take up this set of amendments and reviewed a draft of the proposed edits at its February 25, 2019 work session.[3] At the February 25, 2019 regular meeting that same evening, the Commission made a motion to formally initiate the legislative amendment process.[4]

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[1] *See also* NMC 14.52.080(C)(3)(h).
[2] City of Newport Cmty. Dev. Dep't, Planning Staff Mem., *Amendments to Ch. 14.21 Geologic Hazards Overlay*, 1 (July 1, 2019) [*hereinafter Staff Memo*].
[3] *Staff Memo*, 1.
[4] *Staff Memo*, 1.

The proposed amendment is a legislative land use action.[5] To properly approve the proposed amendments, the City Council, after considering a recommendation by the Commission, must determine that the changes to the NMC are necessary and further the general welfare of the community.[6] NMC 14.36.010 states:

> Whenever the public necessity and the general welfare require, the City Council of the City of Newport may, on its own motion, or on petition, or on recommendation of the City Planning Commission, (after said Planning Commission and City Council gives public notice and holds public hearings), amend, supplement, or change the regulations or the districts of this ordinance herein established.[7]

Per the Staff Memo's characterization of 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.[8]

Oregon Shores concurs with the Staff Memo's assessment that it would be reasonable for the Commission to conclude these changes are required by public necessity and further the general welfare of the community, per the standard set forth in NMC 14.36.010. As discussed below, the Commission should recommend that the City Council approve the proposed amendments.

B. Need for the Proposed Amendments to NMC Ch. 14.21

As stated above, Ms. Linstromberg, along with other concerned neighbors, was involved in an appeal of a geologic permit issued by the City for a property within an active landslide area (File No. 1-GP-18). To properly initiate appeal, the appellants hired an independent certified engineering geologist to assess whether the applicant's geologic report met the standards contained within NMC Ch. 14.21.[9] This assessment was in effect a peer review, and brought to light significant deficiencies in the applicant's geologic report inconsistent with the requisite standards of the current Geologic Hazards Overlay. That permit application was later withdrawn.[10] Given the problems presented by the application's Geologic Report, this process accrued to the benefit of the City and the community at large. However, obtaining a peer review came at significant cost to the appellants. Oregon Shores strongly supports Ms. Linstromberg's argument that requiring persons who frequent or live in close proximity to active landslide areas

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[5] *Staff Memo*, 1; *See also* NMC 14.52.020(D): Description of Land Use Actions/Decision-Making Procedures – Type IV Land Use Actions.
[6] *Staff Memo*, 1.
[7] NMC 14.36.010 General.
[8] *Staff Memo*, 2.
[9] *Staff Memo*, 1.
[10] *Staff Memo*, 1.

to incur the cost of an independent peer review if they wish to challenge an applicant's geologic hazard report undermines principles of fairness in land use decision-making and is contrary to the public interest.[11]

Land in the vicinity of Jump-Off Joe is an active landslide area, and has been noted to have one of the highest rates of erosion on the Oregon Coast.[12] It is experiencing ongoing earth movement, as demonstrated by the landslide photographed by Oregon Department of Geology and Mineral Industries ("DOGAMI") in January of this year.[13] Coastal terraces and bluffs immediately north and south of the Jump-Off Joe area are continually receding, and are thus less suitable for development than they appear.[14] As noted in the Newport Comprehensive Plan, Nye Mudstone is particularly vulnerable to interbedding failure.[15] The slope surfaces at these particular sites are grievously vulnerable to slumping, which means home owners will likely be beset by chronic settlement problems, such as cracking walls, warped doors and windows, and water- and sewer-line difficulties.[16] The geological context of Jump-Off Joe evidences the need for meticulous geotechnical investigation in accordance with the highest industry standards.

The purpose of NMC Chapter 14.21 is to 1) minimize public and private losses due to earth movement hazards (such as landslides and soil expansion) and 2) limit erosion and related environmental damage to protect the public health, safety and general welfare, consistent with Goals 7 and 18 and the Natural Features Section of the Newport Comprehensive Plan.[17] Given the known risks associated with development within active landslide areas and upon receding coastal bluffs, the additional scrutiny inherent to a peer review process alongside the other proposed changes to NMC 14.21 would ensure consistency with the purpose of the Geologic Hazards Overlay.

II. The Proposed Amendments to NMC Ch. 14.21 are necessary and serve to further the general welfare of the community.

Oregon Shores provides these comments in order to express its support for the proposed amendments to the Geologic Hazards Overlay.

A. NMC 14.21.040(D) – Exemptions.

The proposed amendment to NMC 14.21.040(D) is as follows:

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

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[11] *Staff Memo*, 1.
[12] *See* Paul D. Komar, *The Pacific Northwest Coast: Living with the Shores of Oregon and Washington*, 161, 163-65 (1999).
[13] *See Staff Memo*, Attach. D, 36-37 (Jan. 23, 2019 e-mail from George R. Priest to Derrick Tokos).
[14] Newport Comprehensive Plan, "Natural Features," § 3, 30 (1991).
[15] Newport Comprehensive Plan, §3 at 30.
[16] *Id.*
[17] NMC 14.21.010 – Purpose.

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;[18]

Per the Staff Memo, "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."[19] Oregon Shores strongly agrees with the staff recommendation that the proposed changes to NMC 14.21.040(D) be retained.[20] Given the highly dynamic nature of the coastal environment and the increasing risk of extreme climate events, the clearing of vegetation and excavation associated with the exploratory work required to conduct a geotechnical investigation could itself compromise slope stability and endanger shoreline areas directly below. Such exploratory excavations should be well-designed and limited to the minimum activities required to determine suitability in accordance with the requirements of NMC Chapter 14.21. Active oversight during the course of explorations is required to respond to the demands of such a dynamic coastal locale. Requiring a letter from the engineering geologist or geotechnical engineer outlining scope of work prior to commencement of excavation as well as oversight during the excavation itself would potentially prevent unnecessary or even harmful pre-development work. As noted by Ms. Linstromberg, NMC 14.21.040(D) as presently written has not served to prevent excessive earthworks in the predevelopment phase.[21] The proposed amendment to NMC 14.21.040(D) encourages reasonable oversight over exploratory excavations, and is thus necessary and serves to further the general welfare of the community.

B. NMC 14.21.060 – Geologic Report Guidelines.

The proposed amendment to NMC 14.21.060 is as follows:

> 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.[22]

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[18] *Staff Memo*, Attach. A.
[19] *Staff Memo*, 2.
[20] *Staff Memo*, 2.
[21] *See Staff Memo*, Attach. D, 36-37 (Jan. 23, 2019 e-mail from George R. Priest to Derrick Tokos).
[22] *Staff Memo*, Attach. A.

This proposed amendment clarifies 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" ("Guidelines"), versus the version "in use on the effective date of this section" as required by the current NMC 14.21.060.[23] Absent a general overhaul of NMC Ch. 14.21 to include a comprehensive set of separate requirements, Oregon Shores believes that this change would serve as a positive step toward ensuring the quality and accuracy of Geologic Reports, and would thus arguably be necessary and serve to further the general welfare of the community.

While this is a positive step, Oregon Shores urges the Planning Commission to begin the process of changing the guidelines that are to be followed for preparing Geologic Reports to more thoroughly address the natural processes affecting the City of Newport's coastline through a robust public review process as soon as possible. Neskowin, an unincorporated community in Tillamook County located approximately 40 miles north of Newport, faces similar threats from landsliding and erosion associated with known chronic coastal hazards. It undertook a multi-year, grassroots effort, supported by a grant from the Department of Land Conservation and Development ("DLCD"), to improve their coastal hazards overlay zoning framework's ability to manage development in areas facing challenges presented by shoreline erosion, landsliding, and sea level rise. As a result of this coordinated effort, Tillamook County adopted the Neskowin Coastal Hazards Overlay Zone ("NESK-CH"). NESK-CH's Geologic Report Standards are a strong example of how the Guidelines and locally developed reporting requirements can work in harmony to provide an easily accessible standard for those preparing and those reviewing Geologic Reports.[24]

C. NMC 14.21.120 – Peer Review within Active Landslide Zones.

The following is a new section drafted to provide for peer review in active landslide zones:

NMC 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.

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[23] NMC 14.21.060 – Geologic Report Guidelines.
[24] *See* NESK-CH §3.570(5), 91-95 (May 27, 2015) *available at* https://www.co.tillamook.or.us/gov/ComDev/documents/luo/05272015LUO/Final%20Section%203.500%20revised%2010032018.pdf.

> 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.

Oregon Shores is generally supportive of this new section requiring peer review. An independent peer review conducted for the benefit of the City during application completeness review would serve to vet whether a geologic report met the requisite standards, identify potential deficiencies, and provide an applicant the opportunity to address such deficiencies prior to the end of the completeness review process. This change would arguably reduce the likelihood of appeals, and ensure that proposed developments in landslide prone areas proceeded on the basis of a report that robustly met criteria.

However, we strongly disagree with the Staff's recommendation that the Commission "defer to the peer reviewer" as to whether to conduct a site visit. NMC 14.21.120 as proposed should include language explicitly requiring the peer reviewer to conduct a site visit, or to explain in written format why such a visit was unnecessary for the proposed development in question. This is evidenced by the example provided by Ms. Linstromberg from the record of File No. 1-GP-18, where the peer reviewer's site visit produced visual evidence of recent slope movement omitted from the applicant's Geologic Report.[25] The City's first consideration should be ensuring that a development does not infringe on protect natural resources or public safety, as required by the NCP and the NMC. Requiring a site visit as part of an independent peer review would arguably reduce the City's liability for failing to ensure a given Geologic Report is consistent with the requisite criteria of NMC Ch. 14.21.

III. Conclusion

For the reasons stated above, the Planning Commission should recommend that the City Council adopt the proposed amendments the Geologic Hazards Overlay, with an explicit requirement that an independent peer review should involve a site visit to assess a Geologic Report's consistency with the requisite criteria of NMC 14.21. This would be a valuable first step to crafting a Geologic Hazards Overlay that would respond to the challenges presented by the landslide-prone areas on the City of Newport's shoreline, challenges which will only be exacerbated by the impacts of climate change.

Oregon Shores believes that our communities, especially those along the Oregon coast, must begin to plan for climate change impacts immediately. We urge the Commission to use the amendments currently initiated by the Planning Commission as a starting point for a meaningful overhaul of the Geologic Hazards Overlay in order to respond to these oncoming challenges.

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[25] *Staff Memo*, Attach. D.

Oregon Shores Conservation Coalition
Comments on File No. 1-Z-19, Amendments to Chapter 14.21 Geologic Hazards Overlay

Advance planning is critically important given two opposing forces likely to result from climate change. On the one hand, increased storm frequency and intensity, along with sea level rise and decreased summertime precipitation, will put coastal properties, infrastructure, natural areas, and water sources at risk. As storm surge increases and sea levels rise with climate change, we can expect to see more problems along the coast with homes being undercut by erosion along bluffs or dunes. On the other hand, Oregon's coastal climate is likely to remain mild, with longer, warmer summers and more temperate winters. As a result, Oregon's coastal communities may attract "climate refugees" and experience greater in-migration and associated pressures on land use and water resources. At the convergence of these two forces, Oregon's coastal communities will likely see property disappearing, as beaches migrate inland, while human population growth increases the demand for land and resources. Given these increasing pressures, the need for climate change adaptive planning is critical. A concerted and systematic approach to the issue will require garnering public and political support for changes to raise the bar for construction and encourage property owners to pursue alternative methods of locating and protecting structures on coastal lands.

Sincerely,

Phillip Johnson
Executive Director
Oregon Shores Conservation Coalition
P.O. Box 33
Seal Rock, OR 97376
(503) 754-9303
phillip@oregonshores.org

Derrick Tokos

From: John and Chris <honekiri@gmail.com>
Sent: Friday, July 05, 2019 11:37 AM
To: Derrick Tokos
Subject: Peer review amendment to the Geologic Hazard code

Follow Up Flag: Follow up
Flag Status: Flagged

Newport Planning Commission,

I support the proposed amendment to the Geologic Hazards Overlay code regarding Peer Review. The amendment provides for an independent professional opinion which will help the City make informed decisions within the Active Landslide Zones.

Christine Schneller
Homeowner
[redacted]
Newport, OR 97365

Derrick Tokos

From: Mona Linstromberg <lindym@peak.org>
Sent: Friday, July 05, 2019 11:38 AM
To: Derrick Tokos
Cc: Sherri Marineau
Subject: Comment 1-Z-19, Chapter 14.21 amendment
Attachments: Spring St Roth comment final.pdf

Please see attached comment on the Planning Director's approval of 8-GP-18, applicants Tim and Theresa Roth, three lots west on Spring St and just north of 15th St. These lots are in the Geologic Hazard Zone (active slide area). This project, as well as 1-GP-18 (our appeal of Director approval was upheld in 2018) are the poster children of why the current amendment (1-Z-19) and the proposed Tsunami Hazard Overlay Zone need to be adopted and proactively implemented. It appears to me that the true umbrella under which our concerns lie for our coast is CLIMATE CHANGE. Our coast lands are under threat and, as water rises (for example), existing threats to the coast will be exacerbated.

This is not the time to hedge our bets. Given our current opportunity (1-Z-19), we should not have to rely on the City's selected peer reviewer to make the decision whether or not a site visit might be useful. As I have previously stated, geology is not confined by tax lot boundaries. The eye is a tool and, unbeknownst to someone doing a technical peer review, geology can manifest itself in visual clues not necessarily discernible in a sterile review environment. Peer review should not just be a critique of an engineering geologist's methodology (for example) but what may be indicated in the field.

Please be thorough and **approve** 1-Z-19 **amending it** to include a required site visit during the independent peer review of the applicant's geologic report. Appropriate language would include assurance of access to the subject property.

Please enter in the record and acknowledge receipt.
Thank you for your attention and consideration.

Mona Linstromberg
Family home: 1442 NW Spring St., Newport, OR 97365

Sent via my totally safe HARD WIRED internet connection

June 17, 2019

8-GP-18
Lots 1-3, Block 49, Oceanview subdivision – Tax lot 2300 Map 11-11-05-BB (**NW Spring St**)
Applicants: J.T. Roth, Jr. & Theresa Roth

Comment: Proposed Development in the Geologic Hazard Zone, Active Slide Area

The subject property is comprised of three lots just north of 15th St on the west side of NW Spring St. This property is in the same active slide area so thoroughly documented in the record of 1-GP-18 (geologic permit, appeal of Director approved permit upheld). There are not the financial resources to provide the peer reviewed scrutiny required by NMC 14.21.120, appeal of Director approved geologic permits, as was done with 1-GP-18. My not appealing this approved application in no way indicates a lack of extreme concern about this current proposal. **My comment is being submitted for inclusion in the land use file of 8-GP-18 to record my objection to the Director's approval of this application** and to inform the City Council.

The three subject lots are heavily treed and these trees are slated to be removed in July 2019. Newport Oregon is a "Tree City USA" but on private property there is no tree protection even in such a sensitive area where coastal vegetation is imperative for erosion control. Although there is an erosion control plan for this site, these mature trees are high enough on the bluff to help stabilize and help ensure the integrity of this vulnerable site. The removal of most, if not all, of these trees is unconscionable.

In the End Notes [i], I list multiple geologic hazard reports for properties ranging from north of the subject property at 1610 NW Spring St to south at 1505 and 1409 NW Spring St. As with Tax Map 11-11-05-BC, Tax Lots 1800, 1900 & 1903 (1-GP-18 referenced above), all properties are in the same Geologic Hazard Zone, an active slide area. My goal is not to give a comprehensive analysis of any geologic report, as I do not have the expertise, but to point to a continuing disturbing picture.

K & A Engineering, the engineering firm hired by the Roths, was also the engineering firm utilized in 1-GP-18. On page 5 of the current geologic report, it is noted that hairline cracks have been observed in the pavement on Spring St bordering the subject property. K & A concludes those cracks may not be due to earth movement. In the record of 1-GP-18, there are photos [1] of cracks in the driveway at 1409 Spring St. (property adjacent to TL 1800) along with a 2016 geologic report by Schlicker and Assoc. documenting the movement of earth prior to its 2005 study. The two referenced studies [2] for 1610

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[1] See End Notes for photo of cracks in driveway at 1409 NW Spring St.

[2] **Tax Lot 900, Map 11-11-5BB – 1610 NW Spring St. Schlicker & Assoc. 2003**
"The adjacent lot west of the site, the western part of the adjacent lot to the north, and most of the site lies above and along the bluff slope in the area of a large active landslide. Virtually the entire site lies on this active landslide. The lateral scarp of the landslide trends through the eastern part of the site in a northeast direction. **We observed ground fractures in the driveway to the home east of the site.**" (emphasis added)

Tax Lot 900, Map 11-11-5BB – 1610 NW Spring St PINNACLE Engineering, Inc. 2007
"Tension cracks indicative of imminent sliding were observed in the driveway surface east of and adjoining the subject lot." (emphasis added)

Spring St. identify cracks in the adjacent property's driveway: one states these are tension cracks indicative of imminent sliding.

On page 6 of K & A's report, reference is made to Gless (Schlicker & Assoc.) noting ongoing movement adjacent to the subject property. This is revealing because the Schlicker report on 1610 NW Spring St. states "**Stabilization would involve numerous properties, not just the subject lot."** [3] (emphasis added) In the current K & A geologic report index, Braun Intertec (re stormwater drainage), pg 5, draws the same conclusion about the subject property noting "...**subject property is a small part of a very large affected area and owner is powerless to do anything to stabilize without complete cooperation and assistance from neighbors and City."** (emphasis added)

This active slide area extends further south and north. Cracks in pavement are just an indicator. See the photo (End Notes) of a recent slide scarp west of the condos on NW Spring and 12th and east of the old Jump-off Joe debacle. This is the crux of the emerging picture of NW Spring St. with yet more development proposed on the west side. The larger picture gets lost when isolating individual lots, as if lot lines define geologic attributes. With the stormwater drainage issues on this street and at this intersection, I am concerned that admonishing the developer to adhere exactly to the long list of recommendations (especially with no independent vetting of technical detail or guarantee of adequate oversight) will not be sufficient and may put this coastal area and Spring St. at risk.

Please enter in the record.
Mona Linstromberg
Family home: 1442 NW Spring St., Newport, OR 97365

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[3] "**7 0 Conclusions and Recommendations**
The site lies on a large active landslide. We observed numerous ground fractures at the site and down slope of the site which indicates that the landslide experiences sporadic movement. At this time, we recommend that the site not be developed due to the high risk of future ground movement. We do not believe that the site can be developed with reasonable risk unless the landslide is stabilized. However, the costs to stabilize the landslide would be so great that it may not be economically feasible given present oceanfront property values in this area**. Stabilization would involve numerous properties, not just the subject lot."** (emphasis added)

END NOTES

[i] **Tax Lot 900, Map 11-11-5BB – 1610 NW Spring St. Schlicker & Assoc. 2003**

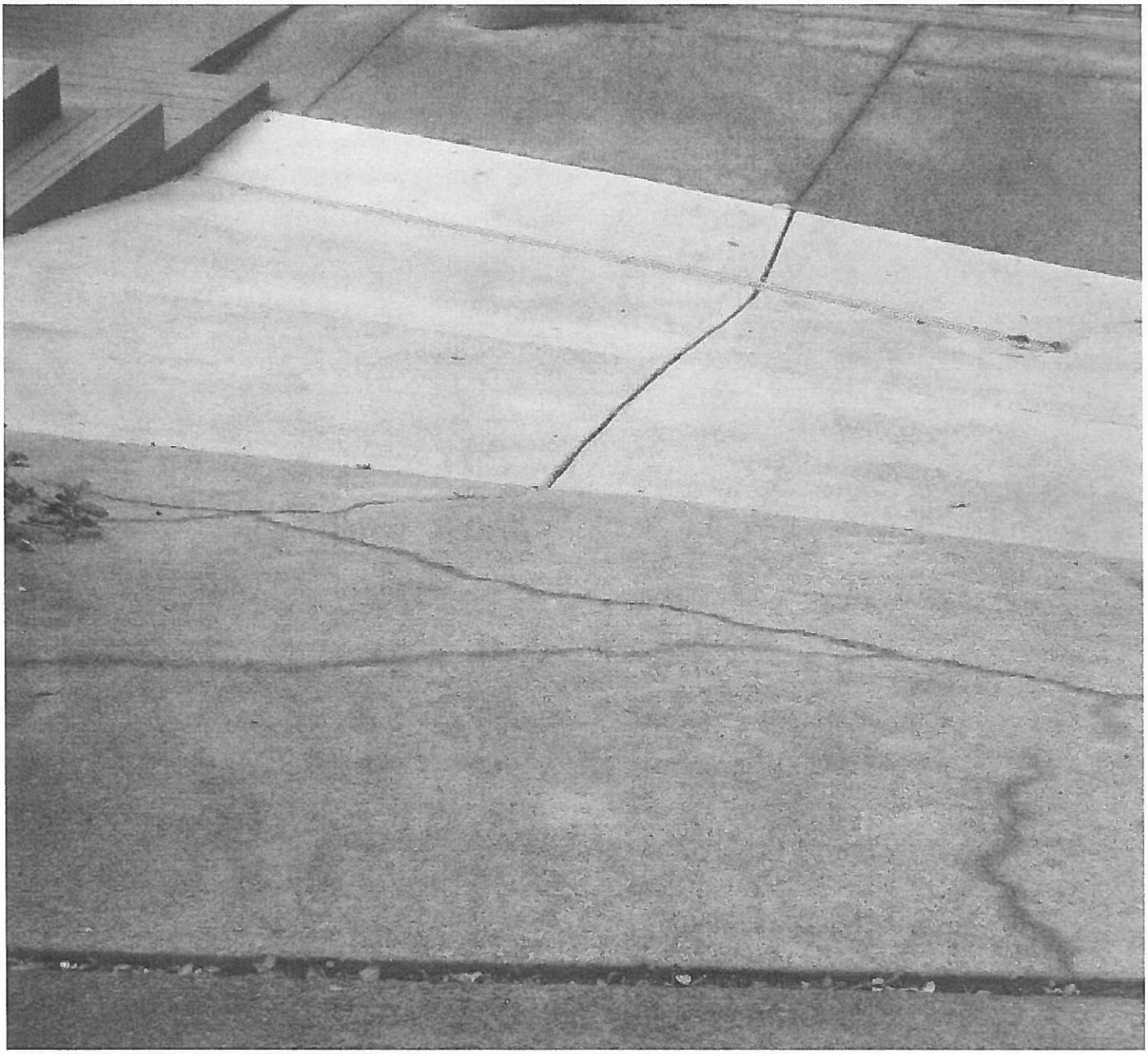
Tax Lot 900, Map 11-11-5BB – 1610 NW Spring St. PINNACLE ENGINEERJNG, INC 2007

Tax Lot 1700, Map 11-11-5BC - 1505 NW Spring St
Geotechnical and Subsurface Investigation Schlicker & Assoc. 2001
Proposed Fahrendorf Condominiums

Tax Lot 1802, Map 11-11-05 BC 1409 NW Spring St.
Engineering Geologic Hazards Investigation Schlicker & Assoc. 2016

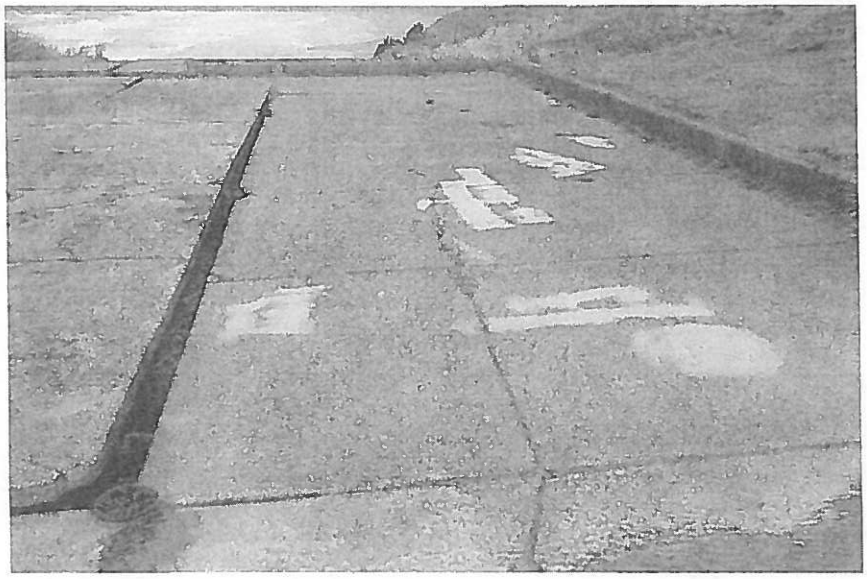
Tax Lot 1800, Map 11-11-05 BC Geologic Hazards Report, Schlicker & Assoc. 2016

See following pages for photos:
1. 1409 Spring St, cracks in driveway **(1-GP-18)**
2. Recent slide scarp west of the condos on NW Spring and 12th and east of the old Jump-off Joe debacle. Second photo is new down dropped block in the old foundation.
Photos by George R. Priest, Ph.D.CEG Oregon Dept of Geology and Mineral Industries
attached to January 23, 2019 email to Derrick Tokos, Planning Director



1409 NW Spring St. **Photo from 1-GP-18**

Recent Slide Scarp - see attribution End Notes page



New Drop Down Block Old Foundation - see attribution End Notes page

Derrick Tokos

From: Teresa Amen <teresa.amen22@gmail.com>
Sent: Monday, July 08, 2019 12:06 PM
To: Derrick Tokos
Subject: Code Amendment Newport Municipal Code 14.21

Mr. Tokos,

My husband, Robert Earle and I, Teresa Amen, are the owners of the family home at [redacted] We are extremely concerned about the possible developments of the properties on the west side of NW Spring Street, in the Geologic Hazard Zone and effect on the infrastructure and community. At the great cost to the community an independent peer review was done regarding development of the property across the street from us, land use application 1-GP-18, and it was determined by the planning commissioners the report from the Engineering Geologist hired by the developer was not sufficient to proceed with development.

We are appreciative to the City of Newport for making amendment changes to the Newport Municipal Code and a Geologic Report being referred to a certified engineering geologist to preform peer review, not at the cost to the citizens, for land use applications submitted in a Geologic Hazard Zone. My husband and I found the process daunting, not having any experience in land use issues, and are grateful to the community/neighbors for their expertise, time and all of our contributions to hire an independent engineering geologist to peer review the submitted geologic report from the developer, application 1-GP-18.

We are in agreement with Ms. Linstromberg and believe a site visit by the professional performing the peer review is important and should be required in the code amendment to Newport Municipal Code Chapter 14.21.

Please enter in the record,

Thank-you,

Robert Earle
Teresa Amen
Property Owners: [redacted], Newport, OR 97365

Derrick Tokos

From: Elaine Karnes <karnese@peak.org>
Sent: Monday, July 08, 2019 12:41 PM
To: Derrick Tokos
Cc: Mona Linstromberg; Phillip Johnson, Oregon Shores/CoastWatch; Anuradha Sawkar
Subject: Geologic Hazards Amendment

Newport Planning Commissioners and Community Development Director,

I am submitting this letter in support of amendments to the geologic hazards land use regulations (NMC Chapter 14.21, dated May 29, 2019). In addition to those proposed amendments, however, I also think it is imperative that whoever conducts the Peer Review also includes a site visit in his/her report.

Please confirm receipt and enter into the record.

Sincerely, Elaine Karnes

Derrick Tokos

From: Matt and Lisa Thomas <L-M_T@msn.com>
Sent: Monday, July 08, 2019 4:41 PM
To: Derrick Tokos
Subject: Planning Commission: Amendment to NMC Chapter 14.21 Geologics Hazards Overlay

Dear Planning Commission Members;

We support the revised language to provide peer review for geologic permit applications and supporting reports in active landslide areas.

We are Spring Street neighborhood landowners who contributed financially to the recent successful appeal of the Lund geologic permit application. We've already seen a subsequent geologic permit application approved by the city for development in the same active landslide area, and we understand yet more applications are expected! Is it up to us (mostly retired) neighbors to foot this bill on a recurring basis?

We appreciate the planning commission's efforts to rectify this misplacement of the burden of proof. It is only common sense that the party proposing potentially risky development should incur the cost of an qualified and independent peer review, when fragile coastlines, private property and city infrastructure are at risk. We further hope that the Planning Commission and our city officials will develop proactive plans to limit development in these hazardous and actively changing areas.

Thank you for the opportunity to comment.

Lisa and Matt Thomas
[redacted], Newport, OR

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

0 1,000 2,000 4,000 Feet

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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

American Society for Testing and Materials, 2008, Standard guides for using rock-mass classification systems for engineering purposes: American Society for Testing and Materials ASTM Standard D-5878-08, 30 p.

American Society for Testing and Materials, 2009, Standard practice for description and identification of soils (visual-manual procedure): American Society for Testing and Materials ASTM Standard D-2488-09, 11 p.

American Society for Testing and Materials, 2011, Standard practice for classification of soils for engineering purposes (Unified Soil Classification System): American Society for Testing and Materials, ASTM Standard D-2487-11, 11 p.

Association of Engineering Geologists, 1996, Professional Practice Handbook: Association of Engineering Geologists Special Publication #5, 3rd edition, S. N. Hoose, editor, 203 p.

California Geological Survey, 2007, Guidelines for reviewing geological reports: CGS Note 41, originally published by the State Mining and Geology Board, 1996. Accessed at: http://www.conservation.ca.gov/cgs/information/publications/cgs_notes/note_41/Pages/Index.aspx

California Geological Survey, 2013, Guidelines for preparing geological reports for regional-scale environmental and resource management planning: California Geological Survey Note 52, 7 p.

ISRM, 1981, Basic geotechnical description of rock masses, prepared by the Commission on Classification of Rocks and Rock Masses, International Society for Rock Mechanics; published in the International Journal of Rock Mechanics, Mineral Sciences, and Geomechanics Abstracts, v. 18, p. 85-110.

Keaton, J.R., 1984, Genesis-lithology-qualifier (GLQ) system of engineering geology mapping symbols: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 355–365.

McCalpin, J., 1984, Preliminary age classification of landslides for inventory mapping: 21st Annual Symposium on Engineering Geology and Soils Engineering, Proceedings, University of Idaho, Moscow, ID, p. 99–111.

Oregon State Board of Geologist Examiners, 1990, 1st Ed., Guidelines for preparing engineering geologic reports in Oregon, 6 p.

Resource Inventory Committee, 1996, Guidelines and standards to terrain mapping in British Columbia: Surficial Geology Task Group, Earth Sciences Task Force, British Columbia, 131 p.

Slosson, J.E., 1984, Genesis and evolution of guidelines for geologic reports: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 295–316.

Utah Section of the Association of Engineering Geologists, 1986, Guidelines for preparing engineering geologic reports in Utah: Utah Geologic and Mineral Survey Miscellaneous Publication M, 2 p.

Washington State Geologist Licensing Board, 2006, Guidelines for preparing engineering geology reports in Washington: Washington State Geologist Licensing Board, Department of Licensing, 15p.

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.
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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

CERTIFIED
OREGON
PLACE NAME HERE
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.

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

American Society for Testing and Materials, 2008, Standard guides for using rock-mass classification systems for engineering purposes: American Society for Testing and Materials ASTM Standard D-5878-08, 30 p.

American Society for Testing and Materials, 2009, Standard practice for description and identification of soils (visual-manual procedure): American Society for Testing and Materials ASTM Standard D-2488-09, 11 p.

American Society for Testing and Materials, 2011, Standard practice for classification of soils for engineering purposes (Unified Soil Classification System): American Society for Testing and Materials, ASTM Standard D-2487-11, 11 p.

Association of Engineering Geologists, 1996, Professional Practice Handbook: Association of Engineering Geologists Special Publication #5, 3rd edition, S. N. Hoose, editor, 203 p.

California Geological Survey, 2007, Guidelines for reviewing geological reports: CGS Note 41, originally published by the State Mining and Geology Board, 1996. Accessed at: http://www.conservation.ca.gov/cgs/information/publications/cgs_notes/note_41/Pages/Index.aspx

California Geological Survey, 2013, Guidelines for preparing geological reports for regional-scale environmental and resource management planning: California Geological Survey Note 52, 7 p.

ISRM, 1981, Basic geotechnical description of rock masses, prepared by the Commission on Classification of Rocks and Rock Masses, International Society for Rock Mechanics; published in the International Journal of Rock Mechanics, Mineral Sciences, and Geomechanics Abstracts, v. 18, p. 85-110.

Keaton, J.R., 1984, Genesis-lithology-qualifier (GLQ) system of engineering geology mapping symbols: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 355–365.

McCalpin, J., 1984, Preliminary age classification of landslides for inventory mapping: 21st Annual Symposium on Engineering Geology and Soils Engineering, Proceedings, University of Idaho, Moscow, ID, p. 99–111.

Oregon State Board of Geologist Examiners, 1990, 1st Ed., Guidelines for preparing engineering geologic reports in Oregon, 6 p.

Resource Inventory Committee, 1996, Guidelines and standards to terrain mapping in British Columbia: Surficial Geology Task Group, Earth Sciences Task Force, British Columbia, 131 p.

Slosson, J.E., 1984, Genesis and evolution of guidelines for geologic reports: Bulletin of the Association of Engineering Geologists, v. 21, no. 3, p. 295–316.

Utah Section of the Association of Engineering Geologists, 1986, Guidelines for preparing engineering geologic reports in Utah: Utah Geologic and Mineral Survey Miscellaneous Publication M, 2 p.

Washington State Geologist Licensing Board, 2006, Guidelines for preparing engineering geology reports in Washington: Washington State Geologist Licensing Board, Department of Licensing, 15p.

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.

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."

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

98

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 Occ. Cert. No.

Motel Occupancy Group R-3 Residence 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. Fee $

Fill ☐ Cubic yds.

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	By		By
Date 7/29/88	Date		Date 7/29/88

Attachment 9 - 1245 NW Spring St., invoice foundation work Final Date

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
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at the size he wa
them out, cover
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every three to fo

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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)

Case File: 2-Z-19
Hearing Date: July 8, 2019 (continued to July 22, 2019) / Planning Commission

PLANNING STAFF MEMORANDUM
FILE No. 2-Z-19

I. **Applicant:** Initiated by motion of the Newport Planning Commission on May 13, 2019.

II. **Request:** Amends Newport Municipal Code Chapter 2.05 (Boards and Commissions), Chapter 8.10 (Nuisances), Chapter 9.10 (Right-of-Way Permits), Chapter 9.15 (Encroachment Permits) and Chapter 13.05 (Subdivision Regulations) to set out a permitting process for pruning and removing trees from the public right-of-way. The changes further establish that street trees installed in new subdivisions adhere to the City's tree plan. The only land use regulations being amended are the Chapter 13.05 subdivision standards. All other changes are to provisions of the Newport Municipal Code that are not land use regulations.

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 Chapter 13.05 of the Newport Municipal Code are necessary and further the general welfare of the community (NMC 14.36.010). All other changes may be adopted if the Council concludes it is in the public interest to do so.

IV. **Planning Staff Memorandum Attachments:**

Attachment "A" – Draft Municipal Code Amendments, dated July 19, 2019
Attachment "B" – Draft Tree Manual
Attachment "C" – Acceptable Species for Planting (Appendix B, Draft Park System Master Plan)
Attachment "D" – Notice of Public Hearing

V. **Notification:** The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on May 29, 2019. Notice of the Planning Commission hearing was published in the Newport News-Times on June 28, 2019 (Attachment "D").

VI. **Comments:** No comments have been received on the proposal.

VII. **Discussion of Request:** The draft amendments set out a permitting process for pruning and removing trees within the public right-of-way, and establish that street trees installed in new subdivisions must adhere to the recommendations contained in the tree manual (Attachment "B"), which would be adopted by resolution. The Parks and Recreation Committee will serve as the City's "Tree Board" to adjudicate requests to remove trees. This proposal fulfills a commitment the City made when it obtained a "Tree City USA" designation.

Proposed amendments were vetted with the Parks and Recreation Committee, and reviewed by the Planning Commission, in draft form, at work sessions on April 8, 2019 and May 13, 2019. The public hearing, scheduled for July 8, 2019 was continued by the Planning Commission to July 22, 2019 at staff's request. This provided time for additional revisions requested by the City Manager and highlighted on Attachment "A".

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 19, 2019

File 2-Z-19: Mark-up Copy of Amendments to Chapters 2.05, Chapter 8.10, Chapter 9.10, Chapter 9.15 and Chapter 13.05 related to a permitting process for pruning, removing and planting trees in the public right-of-way.

Outline below are draft revisions to the cited Newport Municipal Code chapters. New language is shown with a double underline. Deleted language is depicted with a ~~strikethrough~~. Language added since the July 8, 2019 meeting where the Planning Commission continued the public hearing is shown in *italics*.

NMC Chapter 2.05, Boards and Commissions

Section 2.05.040(D)(2) of Ordinance No. 1951, codified under Chapter 2.05, Boards and Commissions, of the Newport Municipal Code is hereby amended to read:

2. To serve as the City's "Tree Board," with authority to approve or deny requests for public tree removal pursuant to Chapter 9.10 (Right-of-Way-Permits) and with the responsibility to study, investigate, develop and periodically update a written manual for the care, preservation, pruning, planting, replanting, removal and disposition of trees and plantings in parks, along public streets, and in other public places.

a. As part of this manual, a list of acceptable species shall be developed and maintained for planting trees along public streets. The list shall provide spacing and planting details for each species, and divide trees into three classes based upon mature height: small (under 30 feet); medium (30 to 50 feet) and large (over 50 feet);

b. The manual may include criteria for determining, and standards for protecting, heritage trees within the city. The purpose of the heritage tree designation is to recognize, foster appreciation of, and protect trees having significance to the community. Criteria may include such things as species rarity, age, size, quality, association with historical events or persons, or scenic enhancement;

c. A draft of the manual and any amendments thereof shall be presented to the City Council and, upon Council acceptance and approval, will constitute the official Tree Manual for the city. Adoption by the City Council shall be by resolution; and

d. The manual shall be reviewed at least once in every three-year period after initial approval.

NMC Chapter 8.10, Nuisances

Section 8.10.160 of Ordinance No. 1921, codified under Chapter 8.10, Nuisances, of the Newport Municipal Code is hereby amended to read:

8.10.160 Abatement by City

A. If the nuisance has not been abated within 10 days of posting or as within the time specified in the Council decision, the city manager may cause the nuisance to be abated by the city. The city manager may decide not to proceed with the abatement if the city lacks the resources to abate the nuisance. The city manager may agree to extend the deadline for a reasonable period of time so long as the owner or other responsible person

is making reasonable efforts to abate.

B. No abatement by the city on private property shall occur unless preceded by issuance of a judicial warrant authorizing entry and abatement, or in the alternative, written consent and release of liability by the property owner or person in charge of the property. The municipal judge shall have the authority to issue a warrant to enter and abate.

C. The city shall keep an accurate record of the actual cost incurred by the city in abating the nuisance, including any administrative expenses, and any costs incurred in posting notice or holding the hearing. Staff time in preparation for and participation at the hearing shall also be included as a cost of abatement.

D. The city may, at its discretion, remove dead, decaying, or unsafe trees or tree limbs on city owned or controlled property, including rights-of-way and easements, where the vegetation presents a safety hazard to the public or adjacent property.

NMC Chapter 9.10, Right-of-Way Permits

Sections 9.10.010, 9.10.020, 9.10.030, 9.10.040 and 9.10.060 of Ordinance No. 1949, codified under Chapter 9.10, Right-of-Way Permits, of the Newport Municipal Code, are hereby amended to read:

9.10.010 Definitions

Cut means to fell or remove a tree or to do anything that has the natural result of causing the death or substantial destruction of a tree, including girdling and topping.

D.B.H. (diameter at breast height) means the tree trunk's diameter as measured at four and one-half feet above the ground; for multi-trunked trees, the diameter of the two largest trunks combined.

Drip line means the area under a tree's canopy as defined by an imaginary vertical line extending downward from the outermost tips of a tree's natural length branches to the ground.

Girdling means the cutting or removal of the outer bark and conducting tissues of a tree, potentially causing death by interrupting the circulation of water and nutrients.

Hazardous growth habit means the development of a tree that, due to a combination of structural defect, disease, or existing disturbance, is subject to a high probability of failure; and such failure would result in a threat to persons or improved property.

Minor pruning means the removal of living parts in an amount of 20% or less of the tree's mass within a five-year period.

Mitigation tree includes any tree required by this chapter as a replacement for a tree removed.

Pruning means normal, seasonal maintenance pruning, trimming, shaping or thinning of a tree necessary to its health, growth and view maintenance where foliage reduction does not exceed one quarter of the total tree foliage.

Public Tree means a tree which greater than 50% of the trunk at DBH is on City owned or controlled property, including rights-of-way and easements.

Removal means cutting or removing 50 percent or more of the crown, trunk or root system of a tree, or any action that results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling. Removal includes topping and girdling, but shall not include pruning performed to applicable standards.

Topping means the severe cutting back of the tree's crown limbs to stubs to such a degree so as to remove the natural canopy and disfigure the tree.

Tree means City-planted trees of any size, or a perennial woody plant, of eight feet or more in height, measuring four inches D.B.H. or larger, with a single main stem (the trunk or bole), or in some cases, multiple trunks, from which branches and twigs extend to form a characteristic crown of foliage.

Tree care professional means a licensed tree care consultant, who is certified as an arborist by the International Society of Arboriculture, or other tree care professional approved by the City.

9.10.020 Applicability

The requirements of this chapter shall apply to all rights-of-way controlled or administered by the City of Newport, whether as a result of a dedication by plat or deed or agreement with Lincoln County or the State of Oregon. This chapter shall further apply to the pruning and removal of public trees.

9.10.030 Permit Required

A. No person may cut, break, dig up, damage in any manner, undermine or tunnel for any purpose in any developed portion of a right-of-way, or obstruct any developed portion of right-of-way, without obtaining a right-of-way permit under this chapter. Developed portions of rights-of-way include all streets, sidewalks and any other paved or improved area. No person may cut, break, dig up, damage in any manner, undermine or tunnel within any portion of a right of way to place, modify, repair or maintain any utility facility without obtaining a right-of-way permit. No person may construct any street, sidewalk, trail or path within any right-of-way without a right-of-way permit. Application for permits shall be in the form prescribed by the city. Permits shall be issued for a limited time and shall specify the extent of the authority granted by the permit. No permit shall be issued unless the applicant has complied with or is not subject to Chapter 9.05.

B. Any person who cuts, breaks, digs up, damages in any manner, undermines or tunnels under any unimproved portion of a right-of-way for non-utility purposes must obtain an

encroachment permit pursuant to Chapter 9.15

C. No person shall prune or remove a public tree without obtaining a right-of-way permit. Minor pruning of street trees in the City's right of way directly abutting private property to maintain minimum sidewalk and road clearance as described in NMC Chapter 14.17, Clear Vision Areas, shall be deemed exempt from this permitting requirement.

9.10.035 Tree Removal Requests and Authority

A private property owner may request permission from the City to remove public trees.

A. The City shall have authority to approve or deny permits for removal of public trees fitting the following criteria:

1. The tree is diseased, blighted, or insect infested.
2. The tree is determined to be dead, or dying and not recoverable
3. The tree is determined to have a significantly damaged root structure that will adversely impact the health and stability of the tree.
4. The tree is determined to exhibit a hazardous growth habit.
5. *Removal of the tree is required to build allowable improvements such as driveway access(es).*

B. The Parks and Recreation Committee, serving as the City's "Tree Board," shall have authority to approve or deny requests for removal of public trees not fitting the criteria in Section 9.10.035(A)(1-5). In making a decision on whether to grant a Removal Permit, the Tree Board shall consider the criteria listed below. The decision shall include findings that cite each of these criteria. These criteria are meant to be guides, and the varying importance or weight of each in determining the appropriateness of tree removal shall be as expressed in the findings:

1. Any of the following criteria shall be considered as aspects that may warrant approval of a tree removal permit:

a. The tree encroaches in the public right-of-way so as to cause damage to improvements within the public right-of-way such as street pavement and sidewalks.
b. The tree is causing structural damage that includes, but is not limited to, foundations, water lines and sewer lines.
c. An existing building footprint lies within the drip line of the tree.
d. Removal of trees is being done for thinning purposes to enhance the health of other trees.
e. The removal would allow solar access for an otherwise extremely shaded property.
f. The removal is being done to enhance a view.
g. In the absence of potential denial criteria listed below, removal is for the owner's landscape improvement but does not jeopardize the aesthetics of the neighborhood.

2. Any of the following criteria shall be considered as aspects that may warrant denial of a tree removal permit:

a. The tree is visually prominent.
b. The tree is of significant size.
c. The tree is part of a larger grove or grouping of trees and its removal will adversely affect the health and safety of the remaining trees within the grove or grouping.
d. The tree is on land that is sloped and removal of the tree may exacerbate erosion or soil slumping in the vicinity of the tree.
e. The tree acts as a privacy barrier for adjacent properties.

C. A decision of the Tree Board becomes final 10 business days after the decision is issued. If the decision is to grant the permit, the permit shall be issued only after the decision becomes final. If there is no appeal filed, the decision of the Tree Board becomes final 10 business days after it (the decision) is issued. The permit to remove the tree(s) will not be issued until the decision becomes final.

9.10.37 Appeal Procedure

A. Decisions of the Tree Board may be appealed to the City Council in writing within 10 calendar days of the date of the decision.

B. The City Council shall set a time and place for a hearing on the appeal within thirty (30) calendar days after receiving the appeal. Notice of the appeal hearing shall be mailed to the appellant at least ten (10) calendar days prior to the hearing. During the hearing, the appellant shall have an opportunity to present in writing or orally the grounds for the appeal. The decision and order of the City Council on such appeal shall be final and conclusive.

9.10.40 Permit Applications

C. Applications for right-of-way permits for pruning and removing trees shall be accompanied by the following:

1. The number, diameter and species of trees requested to be pruned or removed;

2. A site plan identifying the size, location and species of the tree(s) to be pruned or removed. Applicants may use aerial maps as a site plan.

3. For pruning, a statement from a tree care professional indicating that the proposed pruning measures will not foreseeably lead to death or permanent damage to the tree(s).

4. For removals:

a. Reasons justifying the removal, referencing the criteria in Section 9.10.035;

b. A description of the proposed tree replacement with a detailed explanation including the number, size, species and cost.

c. After clearly marking the tree(s) on the property with brightly colored tape, the applicant shall take and include with the application photograph(s) of the tree(s) to be removed and the surrounding area.

d. The applicant may, at their discretion, submit a report by a tree care professional on the health and structure of the tree(s) to be removed and the impact of such removal upon surrounding trees. In no way should this be construed to mean that the City requires such a report, except as noted in subsection (e) below. Reports from other professionals (engineers, appraisers, etc.) may also be included in the application but are not required.

e. If the application is being made on the criteria in Section 9.10.035(A)(1-4) then a formal report from a tree care professional is required, establishing that one or more of the criteria for removal are being met.

f. If the application is being made on criteria other than those in Section 9.10.035(A)(1-5), names and addresses of property owners within 200 feet of the subject property (or outline of property that is held in common), as shown in the records of the County Assessor. If the property is within a homeowners association, then contact information for the association shall also be provided.

9.10.045 Notice of Tree Removal Requests

The City will determine the level of notification needed based on the approval criteria in section 9.10.035.

A. If approval criteria Section 9.10.035 (A)(1-5) apply, then no notification is needed.

B. For all other trees the City shall notify all property owners within 200 feet of the property for which the permit is being requested. The notice shall be sent via US Mail prior to the next Tree Board meeting and shall include the following:

1. The address (or legal description) of the property
2. A copy of the applicant's site plan
3. A description of the trees to be removed including the diameter and species
4. The reasons stated by the property owner justifying the removal
5. The expected Tree Board's decision date
6. How to request a copy of the decision
7. The appeal rights and process
8. The address and contact information of City staff for questions and comments

9.10.060 Permit Issuance

A. Upon a determination that the application and supporting information complies with the requirements of this chapter, the city engineer shall issue a permit authorizing construction in the rights-of-way or pruning or removal of public trees, subject to conditions that the city engineer deems appropriate to ensure compliance with this chapter. In order to minimize disruption to transportation and to coordinate work to be performed in the right-of-way, the permit may specify a time period within which all work must be performed and require coordination of construction activities. The city engineer may impose conditions regulating the time, place and manner of performing the work as the city engineer may deem reasonably necessary.

9.10.065 Tree Removal and Replacement

A. If permission for removal is granted, all costs of removal, cleanup and replacement shall be borne by the person requesting the removal. Trees are to be removed at least flush with ground level, stumps shall be ground, and all debris removed.

B. Any person granted a tree removal permit shall replace each removed tree with at least one mitigation tree on the same property, or an approved alternate public property in the city. If approval criteria in Section 9.10.035(A)(1-5) apply, then 1 mitigation tree is required. All other tree replacements shall be in accordance with the table below.

DBH of tree to be removed (inches in diameter 4.5' above the ground)	Number of mitigation trees to be planted
Less than 6"	1
6" to 12"	2
>12" to 18"	3
>18" to 24"	4
>24" to 30"	5
>30"	8

C. The Tree Board may consider other types of landscaping in lieu of trees. The type, amount and arrangement of said landscaping shall be clearly illustrated on a plan provided by the applicant and shall be approved by the Tree Board if it is found that the proposed landscaping:

1. provides aesthetic improvements, and,
2. the planting of replacement trees is not practical or desirable for the public, and,
3. the landscaping will not create a hazard or otherwise impede pedestrian or vehicular traffic.

D. The preferred replacement site shall be on the property from which a tree is being removed. Provided one or more of the mitigation trees cannot be located viably on the property from which a tree is removed, the City may require that the applicant plant one or more mitigation trees on other public property within the city. The City, in conjunction with the Tree Board, shall select an appropriate planting site on open space, a park, or other public land suitable for new trees.

9.10.130 Planting, Maintenance and Removal of Trees

A. Public plantings shall adhere to the following standards:

1. Only those species identified in the City's adopted Tree Manual may be planted along public streets;

2. Spacing between trees shall be in accordance with recommendations contained in the adopted Tree Manual;

3. Only those trees listed as small trees, forbs/herbs, shrubs and grasses in the adopted Tree Manual may be planted under or within 10 lateral feet of any overhead utility wire, underground water line, sewer line, transmission line or other utility;

4. Trees shall be set back from curbs and sidewalks by the size classification in the adopted Tree Manual, as follows: small trees, three feet; medium trees; four feet; and large trees, six feet;

5. No Street Tree shall be planted closer than 35 feet from a street corner, measured from the point of nearest intersecting curbs, curb lines, or edge of pavement; and

6. No Street Tree shall be planted closer than 25 feet from any street light. No Street Tree shall be planted closer than 20 feet from any stop or yield sign. No Street Tree shall be planted closer than 10 feet from any fire hydrant.

B. Removal of trees is allowed without a permit if performed by a utility or by the City or its authorized agent to remove vegetation and trees that present a danger to life or property.

to restore utility services, or to reopen a public thoroughfare to traffic.

C. Removal of trees is allowed without a permit if performed by the City or its authorized agent to remove trees that are deemed nuisances under Chapter 8.10 NMC, Nuisances, or to remove trees necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly owned and dedicated rights-of-way or public utility easements.

D. City Manager may order the removal of any tree, or part thereof, irrespective of the adopted Tree Manual, upon a determination that such action is necessary to resolve an unsafe condition or prevent damage to public improvements.

E. No person shall remove or injure any tree public tree, except in accordance with the provisions specified in this Chapter.

NMC Chapter 9.15, Encroachment Permits

Section 9.15.010, Encroachment Permits, of the Newport Municipal Code, is hereby amended to read:

9.15.010 Permit Requirement

A. The following actions are prohibited within undeveloped portions of rights-of-way or on city property except as authorized by the city by a temporary encroachment permit:
1. Placing or maintaining a structure.
2. Excavation or fill, including placing of rocks or other landscaping materials.
~~3. Planting a tree.~~
43. Landscaping activities, other than in the portion of the right-of-way immediately adjacent to property owned, controlled, or possessed by the person.

NMC Chapter 13.05, Subdivision and Partition

The following language is hereby added to Section 13.05.015 of Ordinance No. 1990, codified as the Newport Subdivision Ordinance:

M. Street Trees. Trees may be installed within proposed or existing rights-of-ways provided the plantings conform to the City's Tree Manual adopted pursuant to Resolution No. _____.

CITY OF NEWPORT - TREE MANUAL DRAFT

"There is ample opportunity to "retrofit" communities with more sustainable landscapes through strategic tree planting and stewardship of existing trees. Accelerating urbanization hastens the need for landscapes that reduce stormwater runoff, conserve energy and water, sequester CO_2, attract wildlife, and provide other aesthetic, social, and economic benefits in new development." -Western Washington and Oregon Community Tree Guide: Benefits, Costs and Strategic Planting

ACCEPTABLE SPECIES AND REGULATIONS

Street Trees are herein defined as any tree planted by the City or authorized to be planted by another party in a Right of Way and designated as such. Street Trees do not include existing native or non-native trees or new plantings that are not authorized by the City.

Public Plantings are herein defined as trees, shrubs, bushes, orbs/herbs grasses and all other woody vegetation in all areas owned by the City to which the public has free access, including public parks having individual names.

The following list constitutes the official **Acceptable Street Trees for Planting List** or N wport, Oregon:

TABLE 1 – ACCEPTABLE STREET TREES FOR PLANTING

SMALL TREES	MEDIUM TREES	LARGE TREES
Flowering Crabapple	European Hornbeam	Douglas-Fir (n)
Japanese Flowering Cherry	Ginkgo Biloba (male cultivars only)	Grand Fir (n)
	Golden Raintree	Holly Oak*
	Japanese Snowbell	Japanese Black Pine*
	Japanese Zelkova	Pacific Madrone (n)*
	Washington Hawthorn	

***Suitable West of Highwa 101, in high wind and close to the ocean; (n) denotes native species**

For a list of acceptable public plantings in Newport, see **Appendix B: City of Newport Acceptable Species for Pla ting.**

SPACING

In accordance with the hree species size classes listed in Table 1, no trees should be planted closer together than the following: Sma l Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect.

DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curblines and sidewalks should be in accordance with the three species size classes listed in Table 1. No trees should be planted closer to any curb or sidewalk than the following: Small Trees, three feet; Medium Trees, four feet; and Large Trees, six feet.

DISTANCE FROM STREET CORNERS, HYDRANTS, STREET LIGHTS, SIGNS, AND VISION CLEARANCE

No Street Tree should be planted within the Clear Vision Area closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs, curb lines, or edge of pavement (see Figure 1). Existing trees located within a Clear Vision Area should have their branches and foliage removed to the height of eight feet above the grade. No Street Tree should be planted closer than 25 feet from any street light. No Street Tree should be planted closer than 20 feet from any stop or yield sign. No Street Tree should be planted closer than 10 feet of any fire hydrant.

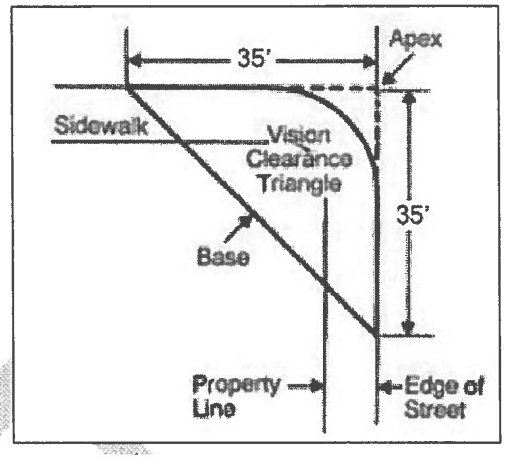
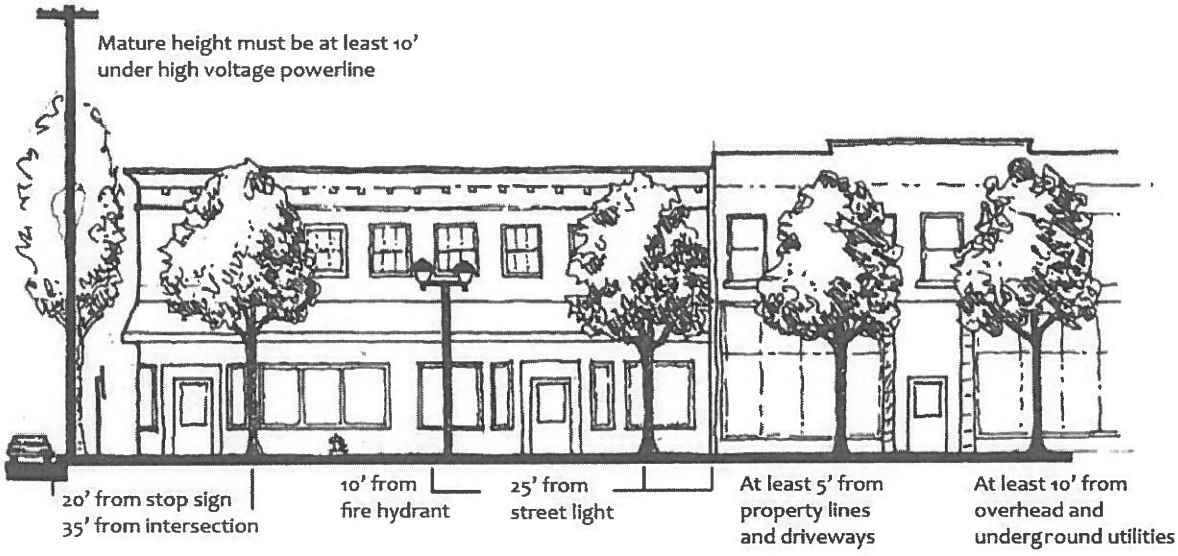


Figure 1. Clear Vision Area

UTILITIES

No Street Trees other than those species listed as small trees, forbs/herbs, shrubs, and grasses in **Appendix B: City of Newport Acceptable Species for Planting** may be planted under or within 10 lateral feet of any overhead utility wire, underground water line, sewer line, transmission line or other utility.



HOW TO PLANT

Pick your site first and species second. For instance, if you have ample space, it does not make sense to plant a small ornamental tree. Likewise, if you have a narrow space with overhead utilities present, it does not make sense to plant a large conifer.

WHERE TO PLANT

Planting the right tree in the right place is essential if you want to maximize the benefits of trees and avoid future interference with foundations, sidewalks, driveways, and fences. Planting should always be

done with consideration for underground and overhead utilities, street signage, street lights, driveways and other infrastructure. Call: 1-800-332-2344 (or 811) before you dig.

WHAT TO PLANT

When planting, it is essential to consider the future size of trees at maturity, rather than their size at planting. Plant tall columnar trees in narrow open spaces. Smaller rounder trees are the only ones appropriate to plant near overhead utility wires. To maximize benefits such as energy savings, overall tree canopy, and wildlife habitat, plant large trees such as Northwest natives when space is available. See **Appendix B: City of Newport Acceptable Species for Planting** for detailed information about different sizes and characteristics of climate appropriate species for planting.

MAXIMIZE THE BENEFITS OF YOUR TREE

To provide effective shading of your home, trees should be planted within 30 feet of the home, on the south and west sides. Plant at least five feet from property lines and five feet from driveways. Persistent wind comes out of the north in summer on the Oregon Coast. Strong gusty winds come out of the southwest in winter. Consider planting a windbreak, such as a row of conifers, to shield more vulnerable trees and plantings. Take time to observe the patterns of the wind, the sun, the shade and drainage on your site before planting. Remember that trees and their roots and branches do not mix well with buildings and pavement.

ENVIRONMENTAL FACTORS

It is a good idea to think about factors such as soil, water and sunlight requirements as well as exposure to salt and wind in certain areas of Newport. In addition to **Appendix B: City of Newport Acceptable Species for Planting**, local nurseries and arborists, books, and online resources are great sources for specific tree and site-related information. There are several online references listed in Appendix A of this plan.

PROHIBITED SPECIES

The following tree species are prohibited from use as street trees for one or more of the following reasons: 1) their roots cause injury to sewers or pavements; 2) they are particularly subject to insects or disease; 3) they cause safety and visibility problems along streets and at intersections; 4) they create messy sidewalks and pavements.

Fruit and Nut Trees
Ailanthus (Tree of Heaven)
Aspens
Black Locust
Cottonwoods
Goldenchain
Norway Maple
Osage-Orange
Palms
Poplars
Sweetgum
Sycamore Maple
Willows

The following species should not be planted and should be controlled within the City of Newport due to their invasive nature:

Butterfly Bush (*Buddleya davidii*)
Cotoneaster (*Cotoneaster franchetii, Cotoneaster lacteus*)
English Hawthorn (*Crataegus monogyna)*
English Holly (*Ilex aquifolium*)
English Ivy (*Hedera helix)*
English Laurel (*Prunus laurocerasus*)
European Beachgrass (*Ammophila arenaria*)
Evergreen Clematis (*Clematis vitalba*)
False Brome (*Brachypodium sylvaticum*)
Field Bindweed/Morning Glory (*Convolvulus arvensis*)
Gorse (*Ulex europaeus*)
Himalayan Blackberry (*Rubus armeniacus, Rubus discolor*)
Irish Ivy (*Hedera Hibernica*)
Japanese Sedge (*Carex kobomugi*)
Pampas Grass (*Cortaderia jubata, Cortaderia sellowana*)
Portuguese Broom (*Cytisus striatus*)
Purple Loosestrife (*Lythrum salicaria*)
Scotch Broom (*Cytissus scoparius*)
Spurge Laurel (*Daphne laureola*)

GENERAL GUIDELINES

- Avoid planting trees under overhead wires and above under ground utilities.
- Do not plant trees near building foundations or walls.
- Do not plant trees that produce nuts or large fruit in pedestrian areas.
- A tree's mature size and shape must be of the proper scale to fit the site and surrounding buildings.
- Trees have roots. Roots spread beyond the branch area of the tree. Most roots are found in the top 18" of soil; most absorbing roots are found in the top 6" of soil.
- Trees crowded in small street spaces may crack sidewalks and paved areas.
- Determine the necessary root growth space for the species you select. Think of clustering trees in a park setting or a parking lot to provide larger soil volumes for safe root growth. Grouping spaces as contiguous pits to provide shared soil volumes is recommended, rather than digging several individual pits. Groupings create their own small environments and may survive better.
- Identify legal restrictions for planting for both public and private property.

PLANTING A BALLED & BURLAPPED TREE

- Prior to placing it in the planting hole, while the burlap is in place, tilt the tree and prune off crossed/broken branches, and smaller branches that may contribute to long-term poor form. You do not need to "balance" the tree crown with the root loss. Keep pruning very light and minimal.
- Carefully remove any wire basket, and unwrap the tree's burlap, leaving it underneath the tree. (You will use the unwrapped burlap to lift and move the tree.)
- Gently remove extra soil from around the top of the root ball until you find the root flare of the highest major root. Protect the root ball from falling apart during this process.

- Dig the planting hole the same depth as the root ball but 2-3 times the width.
- Score the sides of the hole.
- Gently lift the tree using the burlap and lower it into the middle of the hole. The root flare—highest major root—should be level with the soil surface.
- Rock the tree gently to one side while tucking the burlap beneath the tree. Rock the tree gently to the opposite side, enabling you to pull out the burlap from the bottom of the hole. Support the root ball to keep it intact throughout the process.
- Stabilize and straighten the tree with backfill, being careful not to crack or damage the root ball. Double check to ensure the highest major root is even with the soil surface.
- Add the rest of the soil back into the hole, gently pressing down as you go to avoid air pockets, but not so hard as to heavily compact the soil.
- After planting, water the tree thoroughly to settle the soil and remove air pockets.

PLANTING A CONTAINERIZED TREE

- Massage the container to loosen the root ball from the pot.
- Massage the roots and loosen up the root ball soil.
- If any roots are circling, lay the root ball on its side and prune the root at the point where it begins to circle.
- Gently remove extra soil from around the top of the root ball until you find the root flare of the highest major root.
- Gently lift the tree by the root ball with a partner and lower it into the middle of the hole. The root flare—highest major root—should be level with the soil surface.
- As with all trees…
- Stabilize and straighten the tree with backfill
- After planting, water the tree thoroughly.
- If you have mulch, spread it around the base of the tree, keeping it 2-4" away from the trunk.

STAKING

- Newly-planted trees do not need to be staked if they are in a safe, gust-free location. Trees should be staked for one year only, loose enough to allow for movement in the wind, if they are in a location where they experience gusts or constant wind or are in any other location where they could be damaged by vehicles or pedestrians.

APPENDIX A – RESOURCES

Arbor Day Foundation - Trees
https://www.arborday.org/trees/

Friends of Trees - Browse Trees
https://friendsoftrees.org/browse-trees/

GardenSmart Oregon Guide to Non-Invasive Plants
https://www.invasive.org/gist/products/outreach/gardensmart_oregon_reduced.pdf

Great Plant Picks

http://www.greatplantpicks.org/

Missouri Botanical Garden Plant Finder

http://www.missouribotanicalgarden.org/PlantFinder/PlantFinderSearch.aspx

Trees Are Good

https://www.treesaregood.org/

Western Washington and Oregon Community Tree Guide: Benefits, Costs and Strategic Planting [PDF]
https://www.itreetools.org/streets/resources/Streets_CTG/CUFR_164_Pacific_Northwest_CTG.pdf

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Height / Width	Wind Tolerance	Street Tree	Water	Sun / Shade	Evergreen / Deciduous
TREES								
Large								
Sitka Spruce	*Picea sitchensis*	X	150' / 30'	H		M	Full sun	E
Grand Fir	*Abies grandis*	X	100' / 20'	L	X	M	Sun/Shade	E
Coast Redwood	*Sequoia sempervirens*	CA Native	100' / 25'	H		M	Full sun	E
Douglas Fir	*Pseudotsuga menziesii*	X	80' / 20'	L	X	M to H	Full sun	E
Norway Spruce	*Picea abies*		80' / 30'	H		L	Full sun	E
Holly Oak	*Quercus ilex*		70' / 60'	H	X	M	Sun/Shade	E
Western Red Cedar	*Thuja plicata*	X	70' / 25'	H		M	Sun/Shade	E
Shore Pine	*Pinus contorta*	X	60' / 25'	H		L	Full sun	E
Tuliptree	*Liriodendron tulipfera*		60' / 30'	L		M	Full sun	D
Western Hemlock	*Tsuga heterophylla*	X	60' / 20'	M		M	Sun/Shade	E
Bigleaf Maple	*Acer macrophyllum*	X	50' / 30'	L		M	Sun/Shade	D
Japanese Black Pine	*Pinus thunbergii*		50' / 20'	H	X	M	Full sun	E
Pacific Madrone	*Arbutus menziesii*	X	50' / 30'	H	X	L	Full sun	E
Medium								
European Hornbeam	*Carpinus betulus 'Fastigiata'*		45'/20'	M	X	M	Sun/Shade	E
Gingko	*Ginkgo biloba (male cultivars only)*		45' / 35'	M	X	M	Sun/Shade	D
Japanese Zelkova	*Zelkova serrulata*		45' / 30'	M	X	M	Sun/Shade	D
Bitter Cherry	*Prunus emarginata*	X	40' / 30'	M		M	Part shade	D
Cascara	*Rhamnus purshiana*	X	40' / 12'	M		L	Sun/Shade	D
Leyland Cypress	*Cupressocyparis leylandii*		40' / 10'	H		M	Full sun	E
Scotch Pine	*Pinus sylvestris*		40' / 35'	M		M	Full sun	E
Goldenrain Tree	*Koelreuteria paniculata*		30' / 30'	M	X	L	Sun/Shade	D
Japenese Snowbell	*Styrax japonica*		30' / 30'	M	X	M	Sun/Shade	D
Monterey Cypress	*Cupressus macrocarpa*	CA Native	30' / 8'	H		M	Full sun	E
Strawberry Tree	*Arbutus unedo*		30' / 15'	M		L	Full sun	E
Washington Hawthorn	*Crataegue phaenopyrum*		30' / 30'	M	X	L to M	Full sun	D

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Height / Width	Wind Tolerance	Street Tree	Water	Sun / Shade	Evergreen / Deciduous
Small								
Flowering Crabapple	*Malus 'Liset'*		25' / 20'	M	X	M	Full sun	D
Pacific Wax Myrtle	*Myrica Californica*	X	25'/20'	H		L	Full sun	E
Flowering Cherry	*Prunus serrulata*		20' / 20'	M	X	M	Sun/Shade	D
Japanese Maple	*Acer japonicum*		20' / 15'	M		M	Sun/Shade	D
Pacific Crabapple	*Malus fusca*	X	20' / 20'	M		M	Full sun	D
Star Magnolia	*Magnolia stellata*		15' / 10'	M		M	Sun/Shade	D
Vine Maple	*Acer circinatum*	X	15' / 10'	M		M	Sun/Shade	D

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Evergreen / Deciduous	Height / Width	Water	Sun / Shade
SHRUBS						
Barberry	*Berberis* sp.		E	6' / 6'	L to M	Sun/Shade
Blackhaw Viburnum	*Viburnum prunifolium*		D	12' / 12'	M	Sun/Shade
Bloodtwig Dogwood	*Cornus sanguinea*	X	D	6' / 6'	M	Sun/Shade
Blue Blossom	*Ceanothus thyrsiflorus*	X	E	5' / 5'	M	Sun/Shade
Blue Pacific Shore Juniper	*Juniperus conferta*		E	1.5' / 8'	M	Full sun
Blueberry	*Vaccinium corymbosum*		E	12' / 12'	M to H	Sun/Shade
Ceanothus	*Ceanothus griseus horizontalis*		E	3' / 8'	L	Sun/Shade
Coyote Bush	*Baccharis pilularis*	X	E	4' / 10'	L to M	Sun/Shade
Creeping Juniper	*Juniperus horizontalis*	Northern US	E	1.5' / 8'	M	Full sun
Creeping Mahonia	*Mahonia repens*	X	E	2' / 4'	M	Sun/Shade
Creeping Rosemary	*Rosmarinus prostratus*		E	2' / 3'	L	Full sun
Dwarf Oregon Grape	*Mahonia nervosa*	X	E	7' / 7'	L	Part shade
Escallonia	*Escallonis sp.*		E	8' / 6'	M	Sun/Shade
Flowering Quince	*Chaenomeles japonica*		D	3' / 6'	M	Sun/Shade
Hairy Manzanita	*Arctostaphylos columbiana*	X	E	10' / 10'	L	Full sun
Hawthorn	*Crataegus spp.*		D	30' / 30'	L to M	Full sun
Heath (many species)	*Erica* sp.		E	12' / 6'	M	Sun/Shade
Hopseed	*Dodonaea viscosa*		E	12' / 8'	M	Full sun
Huckleberry	*Vaccinium ovatum*	X	E	8' / 10'	L	Sun/Shade
Hybrid Rhododendron	*Rhododendron sp.*		E	8' / 8'	M	Part shade
Hydrangea	*Hydrangea* sp.		D	5' / 5'	M	Part shade
Japanese Honeysuckle	*Lonicera japonica*		D	30' / 6'	L to M	Sun/Shade
Japanese Umbrella Pine	*Sciadopitys verticillata*		E	25'/15'	M	Full sun
Kinnikinnick	*Arctostaphylos uva-ursi*	X	E	12" / 15"	L	Full sun
Lavender	*Lavandula sp.*		E	3' / 4'	L to M	Full sun
Lilly of the Valley	*Pieris* sp.		E	7' / 7'	M	Sun/Shade
Mahonia	*Mahonia aquifolium*	X	E	5' / 5'	L	Part/Full Shade

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Evergreen / Deciduous	Height / Width	Water	Sun / Shade
Mediterranean Fan Palm	*Chamaerops humilis*		E	15' / 20'	M	Sun/Shade
Mexican Orange	*Choysia ternata*		E	8' / 8'	M	Part/Full Shade
Ninebark	*Physocarpus capitatus*	X	D	8' / 8'	L to M	Part/Full Shade
Nootka Rose	*Rosa nutkana*	X	D	4' / 4'	L	Sun/Shade
Oceanspray	*Holodiscus discolor*	X	D	10' / 8'	M	Part shade
Osoberry / Indian Plum	*Oemleria cerasiformis*	X	D	15' / 10'	M	Part/Full Shade
Pacific Rhododendron	*Rhododendron macrophyllum*	X	E	8' / 8'	L	Part shade
Point Reyes Ceanothus	*Ceanothus gloriosus*		E	6' / 6'	L to M	Sun/Shade
Prickly Currant	*Ribes lacustre*	X	D	7' / 5'	L	Part/Full Shade
Pussy Willow	*Salix discolor*		D	15' / 12'	M to H	Sun/Shade
Red Elderberry	*Sambucus racemosa*	X	D	12' / 15'	M to H	Sun/Shade
Red Flowering Currant	*Ribes sanguineum*	X	D	13' / 7'	L	Part shade
Rosemary	*Rosemarinus* sp.		E	6' / 4'	M	Full sun
Salal	*Gaultheria shallon*	X	E	6' / 8'	M	Sun/Shade
Silktassel	*Garrya elliptica*	CA Native	E	12' / 8'	L	Sun/Shade
Smokebush	*Cotinus coggygria*		D	15' / 15'	M	Full sun
Snowberry	*Symphoricarpos albus*	X	D	6' / 6'	L	Sun/Shade
Spreading Gooseberry	*Ribes divaricatum*	X	D	10' / 3'	L	Sun/Shade
Twinberry	*Lonicera involucrata*	X	D	10' / 10'	M	Sun/Shade
Viburnum	*Viburnum edule*	X	D	5' / 5'	M	Sun/Shade
Wax Myrtle	*Myrica californica*	X	E	20' / 15'	L to M	Sun/Shade
Western Hazelnut	*Corylus cornuta* ssp. *californica*	X	D	4' / 8'	M	Sun/Shade
Western Spirea	*Spirea douglasii*	X	D	7' / 4'	M to H	Sun/Shade
FORBS/HERBS						
Ajuga	*Ajuga repens*			0.75' / 1'	M	Sun/Shade
Aster	*Aster chilensis*	X		3' / 3'	L	Sun/Shade
Beach Aster / Fleabane	*Erigeron glaucus*	X		1' / 2'	L	Sun/Shade
Beach Pea	*Lathyrus japonicus*				M	Full sun

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Evergreen / Deciduous	Height / Width	Water	Sun / Shade
Beach Strawberry	*Fragaria chiloensis*	X		1' / 4'	L	Sun/Shade
Bishop's Hat	*Epimedium sp.*			1' / 1.5'	L to M	Part/Full Shade
Bracken Fern	*Pteridium aquilinum*	X		1.5' / 2'	L	Sun/Shade
California Poppy	*Eschscholzia californica*	CA Native		2' / 2'	L	Full sun
Candy Tuft	*Iberis sempervirens*			1' / 1.5'	M	Full sun
Checkerbloom	*Sidalcea oregana*	X		4' / 4'	M to H	Part shade
Common Camas	*Camassia quamash*	X		2' / 1'	M to H	Sun/Shade
Day Lily (many species)	*Hemerocallis* sp.			1' / 1'	M	Sun/Shade
Deer Fern	*Belchnum spicant*	X		3' / 2'	M to H	Part/Full Shade
Douglas Iris	*Iris douglasiana*	X		2.5' / 3'	L	Sun/Shade
Dragon's Blood Sedum	*Sedum spurium*	X		0.5' / 1.5'	L to M	Full sun
Drops-of-gold	*Prosartes hookeri*	X		3' / 3'	M to H	Part shade
Fairy Bells	*Prosartes smithii*	X		3' / 3'	M to H	Full shade
Fringecup	*Tellima grandiflora*	X		3' / 2'	M to H	Part/Full Shade
Fuschia	*Fuchsia magellanica*			2' / 2'	M	Part/Full Shade
Goat's Beard	*Aruncus dioicus*	AK Native		6' / 4'	M to H	Sun/Shade
Goldenrod	*Solidago canadiensis*	X		5' / 3'	L	Full sun
Gumweed	*Grindelia integrifolia*	X		1' / 1'	L to M	Full sun
Heater (many species)	*Calluna* sp.	X		2' / 2'	M	Sun/Shade
Heuchera	*Heuchera micrantha*	X		3' / 1'	M to H	Part/Full Shade
Ice Dance' Sedge	*Carex morrowii*			1.5' / 2'	M to H	Part/Full Shade
Indian Rhubarb	*Darmera peltata*	X		5' / 5'	L	Part/Full Shade
Inside-Out Flower	*Vancouveria hexandra*	X		1.5' / 1.5'	M	Part/Full Shade
Lady's Mantle	*Alchemilla mollis*			1.5' / 2.5'	M	Sun/Shade
Large Camas	*Camassia leichtlinii*	X		1' / 1'	M to H	Part shade
Lenten Rose / Hellebore	*Helleborus sp.*	X		1.5' / 1.5'	L	Part shade to full shade
Licorice Fern	*Polypodium vulgare*	X		1' / 1'	M	Part/Full Shade
Lithodora	*Lithodora diffusa*			1' / 25'	M	Sun/Shade

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Evergreen / Deciduous	Height / Width	Water	Sun / Shade
Maiden Fern	*Adiantum pedantum*	X		2.5' / 1.5'	M	Part/Full Shade
Matilija Poppy	*Romneya coulteri*	CA Native		10' / 20'	L	Full sun
Phlox	*Phlox subulata*	US Native		0.5' / 2'	M	Full sun
Piggy-Back Plant	*Tolmiea menziesii*	X		0.5' / 0.5'	M to H	Part/Full Shade
Purple Leaf Winter Creeper	*Euonymus fortunei*			0.75' / 3'	M	Sun/Shade
Santolina	*Santolina chamaecyparissus*			2' / 3'	L to M	Full sun
Sea Pink	*Armeria maritima*			1' / 1'	L	Full sun
Sea Watch	*Angelica lucida*	X				
Seashore Lupine	*Lupinus littoralis*	X		1' / 1'	L to M	Full sun
Shasta Daisy	*Leucanthemom x superbum*			4' / 4'	L to M	Full sun
Silver Lace Vine	*Polygonum aubertii*			25' / 25'	M	Sun/Shade
Silverweed	*Potentilla anserine ssp.*	X		1' / 3'	M to H	Full sun
Slough Sedge	*Carex obnupta*	X		2' / 2'	M to H	Full shade
Snow in Summer	*Cerastium tomentosum*			1' / 1'	L	Full sun
Stream Violet	*Viola glabella*	X		0.5' / 0.5'	M	Part shade
Sweet Woodruff	*Galium odoratum*			1' / 1.5'	M to H	Part/Full Shade
Sword Fern	*Polystichum munitum*	X		5.5' / 3'	L to M	Full shade
Thimbleberry	*Rubus parviflorus*	X		8' / 8'	M to H	Part shade
Trillium	*Trillium ovatum*	X		2' / 1.5'	M to H	Part/Full Shade
Voilet	*Viola adunca*	X		1' / 1'	M to H	Sun/Shade
Western Geranium	*Geranium oreganum*	X		3' / 2'	M	Part shade
Wild Ginger	*Asarum caudatum*	X		0.5' / 1.5'	M	Part/Full Shade
Wood Fern	*Dryopteris arguta*	X		2' / 2'	L	Sun/Shade
Wooly Thyme	*Thymus pseudolanuginosus*			0.25' / 1'	L to M	Full sun
Woundwort	*Prunella vulgaris*	X		2' / 0.75'	M to H	Sun/Shade
Yarrow	*Achillea millefolium*	X		3' / 1.5'	L	Sun/Shade

Appendix B: City of Newport - Acceptable Species for Planting

Common Name	Botanical Name	Native	Evergreen / Deciduous	Height / Width	Water	Sun / Shade
GRASSES						
Blue Oat Grass	*Helictotrichon sempervirens*			3' / 2.5'	L to M	Full sun
Blue Wild Rye	*Leymus racemosus* 'Glaucus'	CA Native		2' /2'	L to M	Full sun
Blue-Eyed Grass	*Sisyrinchium idahoense*	X		1.5' / 1.5'	M	Full sun
Feather Reed Grass	*Calamagrostis acutiflora* ' Karl Forester'			5' / 2.5'	M to H	Full sun
Maiden Grass	*Miscanthus sinensis* 'Gracillimus'	X		7' / 6'	M	Sun/Shade
Orgen Tufted Hair Grass	*Deschampsia cespitosa*	X		3' / 3'	M to H	Sun/Shade
Variegated Japanese Silver Grass	*Miscanthus sinensis* 'Variegatus'			9' / 5'	M	Sun/Shade

Attachment "D"
2-Z-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. 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)

) the next morning, and
very one of the new tu-
ers had been dug up and
ere lying neatly next to
e hole and all the blood
eal had been licked up
our German shorthair
gs. I was somewhat
sgusted with myself."
No worries, though.
e replanted using or-
nic fertilizer and got
vay with that. Lesson
arned.

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 potatoes by moving the leaves to one side, Garcia finds the potatoes at the size he wants, pulls them out, covers the others back up and waters. He continues to water every three to four days.

"The nice thing about this method," he said, "is the potatoes don't get as dirty. And if you pick one potato, you haven't hurt the plant or the other potatoes. If you grow potatoes in the ground, you dig them and that's it. If you use the cage, you can harvest multiple times and extend your growing season."

Search online for OSU Extension Gardening Information to see articles and tips, a seasonal calendar, links to garden-related publications and news about the OSU Extension Master Gardener program.

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sonable 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 Shella 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)

6/28/19

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. 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)

PROBATE NOTICE

IN THE CIRCUIT COURT FOR THE STATE OF OREGON FOR THE COUNTY OF LINCOLN Probate Department In the Matter of the Estate of David Charles Oremus Case No. 19PB03861 NOTICE TO INTERESTED PERSONS: Notice: The Circuit Court of the State of Oregon, for the County of Lincoln, has appointed the undersigned as the Personal Representative of the Estate of David Charles Oremus, deceased. All persons having claims against said estate are required to present the same, with proper vouchers to Tim Limbert c/o Holbrook & Associates LLC, Douglas R. Holbrook, 131 NW 20th Street Suite C, Newport OR 97365 within four months from the date of first publication of this notice as stated below, or they may be barred. All persons whose rights may be affected by this proceeding may obtain additional information from the records of the court, the Personal Representative, or the Attorney for the Personal Representative. Dated and first published June 28, 2019. PERSONAL REPRESENTATIVE: Tim Limbert c/o Douglas R. Holbrook - Holbrook & Associates LLC 131 NW 20th Street Suite C., Newport OR 97365; Telephone (541) 265-2300 J28 JY05 JY12 (43-12)

NOTICE TO INTERESTED PERSONS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT; IN THE MATTER OF THE ESTATE OF: RUTH JOY SOMMERSON (DECEASED) CASE NO#19PB03749. NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative at the office of Braulio Escobar, Attorney at Law, PO Box 474, Newport, Oregon 97365, within four months after the date fo first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyer for the personal representative, Braulio Escobar. Dated and first published on June 28, 2019. /s/Braulio Escobar, OSB #781920 Attorney for Personal Rep. PO Box 747 Newport, OR 97365 541-265-7717; Walter Sommerson, Personal Rep., 1443 Yakima Court NW, Salem, OR 97304. J28 JY05 JY12 (44-12)

PROBATE NOTICE

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN Probate Dept. Case No. 19PB04698 NOTICE TO INTERESTED PERSONS: In the Matter of the Estate of DONALD E. SLONECKER, Deceased. NOTICE IS HEREBY GIVEN that Ann K. Slonecker has been appointed as the personal representative of the above estate. All persons having claims against the estate are required to present them to the undersigned attorney for the personal representative at 4915 NE 42nd Avenue, Portland, OR 97218, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights are affected by the proceedings may obtain Additional information from the records of the Court, the personal representative, or the attorney for the personal representative.
Dated and first published on June 28, 2019. Ann K. Slonecker Personal Representative
Lindsay Kearl, OSB #161313 Legacy Preservation Law Attorney for Personal Representative; 4915 NE 42nd Ave. Portland, OR 97218 Tel. (503) 224-6611; Fax: (503) 224-8811; lindsay@mcvittie-law.com Published: June28, July 5 & July 12, 2019.
J28 JY05 JY12 (45-12)

Derrick Tokos

From: DLCD Plan Amendments <plan.amendments@state.or.us>
Sent: Wednesday, May 29, 2019 2:06 PM
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 #: 2-Z-19
DLCD File #: 001-19
Proposal Received: 5/29/2019
First Evidentiary Hearing: 7/8/2019
Final Hearing Date: 8/19/2019
Submitted by: dtokos

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