



COMMUNITY DEVELOPMENT DEPARTMENT

360 SW Avery Avenue
Corvallis, OR 97333-1192
(541) 766-6819
FAX (541) 766-6891

MEMORANDUM

DATE: October 10, 2016
TO: Board of Commissioners
FROM: Toby Lewis, Associate Planner
SUBJECT: Planning Commission Recommendation to the Board of Commissioners

On October 4, 2016, the Benton County Planning Commission held a hearing regarding proposed Zoning Map and Development Code amendments relating to floodplain regulations. The Planning Commission listened to the presentation by staff as well as testimony from Peter Kenagy¹, discussed the proposed amendments, and voted (7-2) to recommend:

- (a) Adoption of the 2016 Flood Insurance Rate Map revisions issued by the Federal Emergency Management Agency and amend the Floodplain Management Overlay zone on the Benton County Zoning Map to reflect the revised panels; and
- (b) Adoption of the proposed text amendments to the Development Code as initially proposed.

Testimony from Mr. Kenagy, as well as questions and deliberation from the Planning Commission, focused primarily on the potential for additional cost to applicants and additional time required to obtain the documentation specified in the proposed code amendments.

Emergency access clarifications in BCC Section 83.605(2)(b)

The main discussion points were:

- The concerns expressed by David Feinberg, Fire Chief for the Blodgett-Summit Rural Fire Protection District, in his e-mail dated October 2, 2016;²
- How to deal with cases where a driveway is required to be elevated but the public road providing access to the driveway is at a flood-prone elevation.;
- The cost and time investment required in order to obtain partition approval; and
- The balance between allowing land divisions and the responsibility of ensuring that approvals are not increasing risks to life and safety in flood hazard areas.

¹ Mr. Kenagy lives at the east end of Nebergall Loop in North Albany and was the only member of the public who attended the hearing on October 4, 2016.

² Mr. Feinberg's e-mail is included with the comments received from the fire protection districts and attached to the agenda packet.

The current Development Code already restricts division of properties within the Special Flood Hazard Area unless the applicant can demonstrate that the building site would be accessible during a base flood event. The proposed code revisions do not create further restrictions, but instead clarify the methods by which an applicant demonstrates compliance with the requirements.

Staff agrees with the concerns expressed by Mr. Feinberg and has no desire to create a false sense of security for property owners. The current access requirements were adopted both to discourage requests for land divisions in flood hazard areas and to help ensure that land division approvals issued by the County do not create additional flood hazards for current and future property owners or for emergency personnel. The current requirements are also intended to highlight the risks of developing in and near flood hazard areas and encourage property owners to be more aware of the flood risk associated with their property. The proposed clarifications to this section are based on a recent realization that, while the intent is good, the code language does not clearly identify the method for complying with the criteria.

In creating the proposed language, staff chose not to identify a specific depth of water that would be allowed to cover a driveway during a base flood event. There are six different fire protection districts that serve the unincorporated areas of Benton County and each one has different equipment and different levels of training and expertise. The proposed clarifications allow for each district to review the expected water depth across a driveway and evaluate whether or not they would be able to access the building site during a base flood event. Responses from the Monroe Fire Protection District, Philomath Fire & Rescue, and the Albany Fire Department all suggest no changes to the proposed amendments.

The proposed code clarifications will affect only dividable land where the proposed building site and/or driveway will be located in a Special Flood Hazard Area (SFHA). A GIS analysis shows that there are approximately 40 to 50 properties that might be affected by the existing land division requirements. Of these, approximately half of the properties appear to have enough land outside of the SFHA that they could be divided without incurring additional cost to document that the new building sites would be accessible during a base flood event.

No-rise verification clarifications in BCC Section 83.205(1)(a)

The main discussion points were:

- How the proposed clarifications might affect and/or function with the variety of potential development proposals within a designated floodway;
- The cost and time investment required in order to obtain approval for a Conditional Letter of Map Revision; and
- Whether or not there might be a less expensive way to ensure compliance with the no-rise verification.

The Development Code currently requires that all requests for development within a designated floodway be accompanied by documentation that the proposed project will create no rise to the water surface elevation expected during a base flood event. Ensuring that a project will create no rise is typically accomplished by ensuring that the amount of fill added to a floodway will not exceed the amount of excavation that occurs.

Documentation of no rise can be accomplished through several methods depending on the type of project including methods such as application for and approval of a Conditional Letter of Map Revision (CLOMR) through FEMA or submission of a No-Rise Certification prepared by a qualified engineer. The Development Code does not currently specify which method is required. The proposed revisions are intended to clarify the documentation method and are in response to past difficulties encountered during discussions with applicants explaining what is required to satisfy the requirements for both large- and smaller-scale projects – ranging from the Philomath Water Treatment Facility expansion and Marys River Natural Area boardwalk construction to private and public bridge replacements – and during review of the documentation submitted by the applicants.

Again, after discussing these matters the Planning Commission voted to recommend approval of the amendments as originally proposed.