



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

December 12, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment
DLCD File Number 007-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 28, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Amanda Puntton, DLCD Natural Resource Specialist
Marguerite Nabeta, DLCD Regional Representative
Christine Shirley, FEMA Specialist
Marissa Daniels, City of Tigard

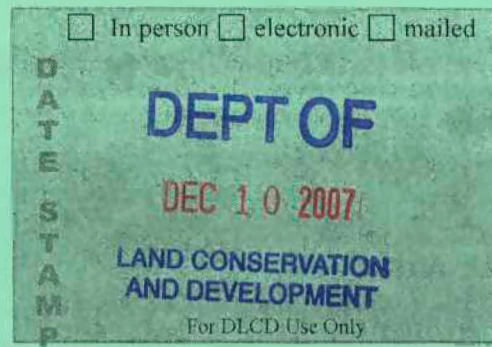
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FORM **2**

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Tigard**

Local file number: **CPA2007-00002**

Date of Adoption: **12/4/2007**

Date Mailed: **12/6/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 8/1/2007

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Amend Chapter 3: Natural Features and Open Space (Statewide Planning Goal 7) of the Tigard Comprehensive Plan to update the goals, policies, and action measures to reflect current conditions.

Does the Adoption differ from proposal? **No**, no explanation is necessary

Plan Map Changed from: _____ to: _____
 Zone Map Changed from: _____ to: _____
 Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____
 Applicable statewide planning goals:
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO
 Did DLCD receive a Notice of Proposed Amendment...
 45-days prior to first evidentiary hearing? Yes No
 If no, do the statewide planning goals apply? Yes No
 If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. 007-07(16277)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro
Clean Water Services
FEMA
Tualatin Valley Fire and Rescue
DOGAMI
Washington County

Local Contact: **Marissa Daniels**

Phone: (503) 718-2428 Extension:

Address: **13125 SW Hall Blvd**

Fax Number: **503-684-7297**

City: **Tigard**

Zip: **97223-**

E-mail Address: **marissa@tigard-or.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 07- 20

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA 2007-00002
TO UPDATE THE GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES
PERTAINING TO STATEWIDE PLANNING GOAL 7: NATURAL HAZARDS

WHEREAS, the Tigard City Council directed staff to complete a full update of the Tigard Comprehensive Plan, including a process for garnering citizen input; and

WHEREAS, the Tigard visioning reports, community surveys, and policy interest team meetings were utilized to develop draft language for the update of the Tigard Comprehensive Plan; and

WHEREAS, the City has proposed an amendment to the Tigard Comprehensive Plan Chapter 3 by updating Goals, Policies, and Recommended Action Measures corresponding to Statewide Planning Goal 7; and

WHEREAS, the Tigard Planning Commission held a public meeting, which was noticed in accordance with City standards, on September 17, 2007, and recommended approval of the proposed CPA 2007-00002 by motion and with majority vote; and

WHEREAS, on December 4, 2007, the Tigard City Council held a public hearing, which was noticed in accordance with City standards, to consider the Commission's recommendation on CPA 2007-00002, and at this meeting the Tigard City Council adopted CPA 2007-00002 by motion, as amended pursuant to the public hearing and its deliberations; and

WHEREAS, Council's decision to adopt CPA 2007-00002 is based on the findings and conclusions found in the City of Tigard staff report dated September 7, 2007 and the associated record which are incorporated herein by reference and are contained in land-use file CPA 2007-00002.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Comprehensive Plan is amended to include new text and to rescind existing text as shown in **EXHIBIT A**; and

SECTION 2: Revisions to **EXHIBIT A**, as made at the public hearing and as memorialized in **EXHIBIT B**, are incorporated by reference; and

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 4th day of December, 2007.

Carol A. Krager
Carol A. Krager, Deputy City Recorder

APPROVED: By Tigard City Council this 4th day of December, 2007.

C. Dirksen
Craig Dirksen, Mayor

Approved as to form:
Justin V. Burns
City Attorney

Certified to be a True Copy of
Original on File

By: Carol A. Krager
Deputy Recorder - City of Tigard

Date: Dec. 7, 2007



Hazards

*“To protect people and property
from natural hazards.”*





Natural features provide a community with valuable resources but, under certain conditions, these resources may also present a hazard. For example, rivers and creeks are important for storm water conveyance, wildlife habitat, and water quality. However, these resources can quickly threaten property and people unless careful planning has documented flooding risk and adequate precautions are taken. The City's commitment to protect people and property from hazards is based on Oregon Statewide Planning Goal 7. Goal 7 lists six hazard categories to be addressed by comprehensive plans. Four of these apply to the City of Tigard: wildfire, landslides, flooding, and earthquakes. In addition, the City is also vulnerable to harm from severe weather and man-made hazards.

GOAL 7:

"To protect people and property from natural hazards."

Tigard's citizens value a safe community where natural resources are protected and there is minimal danger from both natural and man-made hazards. Tigard residents value the importance of natural systems in protecting the community from hazards, and additionally recognize that although landslides, earthquakes, wildfires and floods occur naturally, the effects of these events are often made worse by human activities.

Hazards can have a significant negative impact on a community's quality of life. It is important for the Comprehensive Plan to provide policy direction on how the City will manage hazardous conditions and events. Land use planning, development regulation and emergency management play key roles in assessing and reducing the risk to people and property from hazards. It is important for local governments to have an understanding of underlying natural conditions and past event history to develop hazard mitigation and prevention programs.

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EARTHQUAKES

Because hazards, such as earthquake faults and floodplains, extend across



jurisdictional boundaries, it is essential to coordinate planning and emergency response services regionwide and with the state and federal governments. For example, due to the scale and complexity of earthquakes, Tigard coordinates with the Oregon Department of Geology and Mineral Industries (DOGAMI). In addition to DOGAMI, Tigard coordinates with Metro, Washington County, and other jurisdictions to mitigate the risk associated with an earthquake. To minimize loss of life and property from earthquakes, the City requires all new commercial, industrial, and multifamily structures to conform to Oregon Structural Specialty Code requirements, while single-family construction must conform to the Oregon One and Two Dwelling Specialty Code for seismic category D1.

WILDFIRE

In Tigard, wildfire is characterized by the Urban Interface Zone, or the urban-rural fringe where homes and other structures are built onto a densely forested

“In Tigard, wildfire is characterized by the Urban Interface Zone.”

or natural landscape. The Oregon Department of Forestry implements the Oregon Forestland-Urban Interface Fire Program, which is expected to be fully implemented by 2011, in order to protect interface communities in Oregon from wildfire. The City of Tigard works with Tualatin Valley Fire and Rescue (TVF&R) to mitigate the effects of wildfire. TVF&R is responsible for all fire prevention and education, and has the opportunity to comment on all development applications. TVF&R also maps the urban interface zone in Tigard. The Oregon Department of Environmental Quality (DEQ) controls both

backyard and agricultural burning in Oregon; however, Tigard is within the DEQ permanent burn-ban area in an effort to reduce the risk of wildfire as a result of backyard burning.

LANDSLIDES

People and property are best protected from landslide when building structures and roads are not built within areas prone to mass movement. Although landslides are a natural geologic process, the incidence of landslides and their impacts on people can be exacerbated by human activities. Such human activities include grading for road construction and development, excavation,



drainage and groundwater alterations, and changes in vegetation. The City uses steep slopes to define sensitive lands in the Community Development Code and has special requirements for development in these areas. When LIDAR information is available the City will evaluate the effectiveness of this approach to identifying landslide hazards and limiting their impact on the community. Also, by retaining vegetation and natural drainageways in these areas, the City can work to identifying landslide hazards and limiting their impact on the community. The effects of landslides are often more widespread than the physical area they inhabit, as landslides can affect utility services, transportation systems, and critical lifelines.

FLOODING

Floods are influenced by a number of factors, including the amount and intensity of precipitation, geography and geology, and development activity. The City of Tigard cannot control precipitation or the community's soil type but can control development activity which contributes to, and is affected by, flooding. The City coordinates with several agencies to mitigate the risk of flooding. The FEMA designated floodplain is used to administer the national flood insurance program (NFIP). The floodplain serves as the FEMA flood hazard regulatory area. Within this area, development activities are regulated to minimize impacts on floodwater flows and storage areas to reduce impacts from flood events. Oregon state law regulates development within the 100-year floodplain and Tigard complies through adoption of Metro's Urban Growth Management Functional Plan, Title 3. The Sensitive Lands chapter of the Tigard Community Development Code implements Title 3 through the Clean Water Services' Design and Construction Standards.

"Floods can have a devastating impact on almost every aspect of the community."

Floods can have a devastating impact on almost every aspect of the community, including private property damage, public infrastructure damage, and economic loss from business interruption. The City has been proactive in mitigating flood hazards by purchasing floodplain property. These areas, if left undisturbed, can act to store excess floodwater. The Oregon Division of State Lands (DSL), jointly with the U.S. Army Corps of Engineers, requires a permit for develop-



ment within the waters of the United States. Any disturbance to a water body and its associated floodplain is covered through this process.

OTHER HAZARDS

Tigard is also at risk of non-natural or man-made hazards. Although state-

“Tigard is also at risk of non-natural or man-made hazards.”

wide planning goal 7 addresses natural hazards, other hazards are included in this chapter as the community is concerned about protection from non-natural hazards as well as natural hazards. Other hazards addressed by this section may include mass casualty transportation accidents, hazardous material releases, severe storms, terrorism, epidemics, and infestation. Tigard coordinates planning for non-natural hazardous occurrences with other jurisdictions and agencies from around the state.

KEY FINDINGS

- The Cascadia Subduction Zone could potentially cause a 9+ magnitude earthquake, affecting Tigard.
- Tigard is subject to more frequent shallow earthquakes (crustal fault earthquakes). These events typically do not exceed magnitude 4, but could go up to magnitude 7.
- According to DOGAMI's relative earthquake hazard data, fifty-eight percent of the City is subject to the greatest earthquake hazard level, with an additional 21% falling into the next hazard level. These areas include developed residential and commercial areas, as well as the Washington Square Regional Center.
- Wood-frame homes tend to withstand earthquakes better than unreinforced brick buildings.
- The City of Tigard requires all new commercial, industrial, and multifamily structures to conform to Oregon Structural Specialty Code requirements, while single-family construction must conform to the Oregon One and Two Family Dwelling Specialty Code for Seismic Category D1.
- The increasing number of homes being built in the urban interface zone is increasing the threat of wildfire in Tigard. More than 30% of all land in Tigard is vulnerable to wildfire.



- Tigard is within the Oregon Department of Environmental Quality's permanent burn ban area, so backyard burning is not allowed anywhere within Tigard.
- The most common type of landslide in Washington County is caused by erosion.
- Landslides within Tigard have historically not caused major property damage. However in other parts of the Portland metropolitan region they have caused considerable damage.
- It is estimated about 3% of the City's land, or 286 acres, is vulnerable to landslides.
- Human activities such as deforestation, stream alteration, and urban development within the Tualatin basin have significantly altered the hydrology of the watershed. This has resulted in increased water runoff and greater potential for flooding.
- Floods are Tigard's most frequently occurring natural disaster.
- The 100-year floodplain includes six streams and 7.9% of all land area in Tigard.
- As of June 2006, Tigard owns 34% of the 100-year floodplain.
- Tigard residents are concerned about the effects of all other hazards on the community.

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GOAL

- 7.1 Protect people and property from flood, landslide, earthquake, wildfire, and severe weather hazards.

POLICIES

1. The City shall not allow development in areas having the following development limitations except where the developer demonstrates that generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development:
 - A. areas having a severe soil erosion potential;



- B. areas subject to slumping, earth slides, or movement;
 - C. areas having slopes in excess of 25%; or
 - D. areas having severe weak foundation soils.
2. The City shall favor the use of non-structural approaches to hazard mitigation.
 3. The City shall coordinate land use and public facility planning with public safety providers (law enforcement, fire safety, and emergency service providers) to ensure their capability to respond to hazard events.
 4. The City shall design and construct public facilities to withstand hazardous events with a priority on hazard protection of public services and facilities that are needed to provide emergency response services.
 5. The City shall apply and enforce the most current building code standards to protect the built environment from natural disasters and other hazards.
 6. The City shall enforce standards requiring the creation and maintenance of defensible space around habitable structures located in wildfire hazard areas.
 7. The City shall comply with the Federal Emergency Management Agency (FEMA) flood regulations, which include standards for base flood levels, flood proofing, and minimum finished floor elevations.
 8. The City shall prohibit any land form alterations or developments in the 100-year floodplain which would result in any rise in elevation of the 100-year floodplain.
 9. The City shall not allow land form alterations or development within the 100-year floodplain outside the zero-foot rise floodway unless:
 - A. The streamflow capacity of the zero-foot rise floodway is maintained; and
 - B. Engineered drawings and/or documentation shows there will be no detrimental upstream or downstream effects in the floodplain area.
 10. The City shall work with Clean Water Services to protect natural drainageways and wetlands as valuable water retention areas and, where



possible, find ways to restore and enhance these areas.

11. The City shall comply with Metro Title 3 Functional Plan requirements for balanced fill and removal in the floodplain.
12. The City shall encourage pervious, and minimize impervious, surfaces to reduce storm water runoff.
13. The City shall retain and restore existing vegetation with non-invasive species in areas with landslide potential to the greatest extent possible.
14. The City shall work to reduce the risk of loss of life and damage to property from severe weather events.

“The City shall work to reduce the risk of loss of life and damage to property from severe weather events.”

RECOMMENDED ACTION MEASURES

- i. Place land acquisition priorities on high hazard areas to be used for recreation or open space purposes.
- ii. Update and maintain accurate information regarding natural hazard risks and past events.
- iii. Publicize and maintain maps of high hazard areas.
- iv. Address planning for the protection of public facilities and services from hazards in the *Tigard Public Facilities Plan* and *Community Investment Plan*.
- v. Retrofit existing public facilities and services to contemporary standards to better withstand natural disasters and hazardous occurrences.
- vi. Recognize some existing buildings have not been built to contemporary building code standards and seek ways to encourage their retrofit to modern codes.
- vii. Design and Implement a natural hazards home inspection program.



- viii. Update and maintain a list of essential and critical facilities to be used in hazards planning.
- ix. Work with Tualatin Valley Fire and Rescue Community Safety Program to provide information and education about urban interface wildfire to Tigard citizens.
- x. Adopt the Tualatin Valley Fire and Rescue Wildfire Hazard Map and implement the Wildfire Hazard Mitigation section of the Oregon Residential Specialty Code.
- xi. Provide information and access to resources for property owners who wish to assess the ability of their buildings to withstand natural hazards.
- xii. Continue to maintain eligibility for the National Flood Insurance Program.
- xiii. Research and implement standards to ensure only appropriate land uses are allowed in high hazard areas.
- xiv. Complete the Tigard Natural Hazards Addendum to the Washington County Natural Hazards Mitigation Plan and include risk assessments and mitigation action items.

GOAL

- 7.2 Protect people and property from non-natural hazardous occurrences.

POLICIES

1. The City shall design, construct, and coordinate the surface transportation system to reduce the potential for mass casualty accidents and to provide the ability to evacuate when necessary.
2. The City shall encourage communication and coordination among a wide variety of agencies to respond to technological and man-made disasters.



RECOMMENDED ACTION MEASURES

- i. Keep a current inventory of locations where hazardous materials might pose a danger to the public, including storage and transportation areas.
- ii. Update and maintain the Tigard *Emergency Operations Plan* to ensure essential governance and public safety services are available during a disaster.
- iii. Continue to work with the Washington County Office of Emergency Management to:
 - A. coordinate emergency preparedness education for Tigard residents;
 - B. provide ongoing responder training and exercises;
 - C. coordinate regionwide hazards response; and
 - D. provide hazards information and resources countywide.
- iv. Continue to implement the Community Emergency Response Team (CERT) Program for community members and City staff.
- v. Encourage projects that enhance medical treatment capabilities and capacity.

3. NATURAL FEATURES AND OPEN SPACE

This chapter addresses a broad range of topics all having to do with the natural resources located within the Tigard Urban Planning Area. This chapter reflects the concerns expressed in several of the Statewide Planning Goals including:

Goal #3 - Agricultural Lands; Goal #4 - Forest Land; Goal #5 - Open Spaces; Scenic and Historic Areas and Natural Resources; ~~Goal #7 - Areas subject to Natural Disasters and Hazards;~~ and Goal #8 - Recreational Needs.

The natural environments within the planning area offer many opportunities for a unique and healthy urban development. Those environments, when viewed as a series of systems rather than isolated features, will provide Tigard with those elements necessary for a healthy place in which to live, work and play. Floodplain greenways, for example, can provide the community with an excellent system of open space links between neighborhoods and services, in addition to providing a relatively inexpensive system for storm water runoff. It is to the community's benefit that consideration be given to both the opportunities and the limitations of the various environments within the planning area.

The natural environments included within the planning area all have their own respective limitations with regard to urbanization. Development pressure upon lands with such limitations can have profound effects on the environment. Erosion of steep slopes caused by inappropriate development, for instance, does not occur as an isolated incident. Soil type, permeability, vegetation and drainage all play major roles in and are effected by development. Likewise, the effects of inappropriate development located within the floodplain areas could have adverse effects on properties both up and down stream from the development site. The social, cultural and economic values of such resource lands could be reduced by the effects of urban development nearby. The limitations of the various environments should be considered in reviewing new development within the planning area.

The recognition of the natural environment in the planning area and the development of findings and policies which address the characteristics of the environment are extremely important elements in the Comprehensive Plan. The purpose of this chapter is to define the parameters of the various natural environments in the planning area and to identify the limitations and opportunities inherent in those environments.

Additional information on this topic is available in the "Comprehensive Plan Report: Natural Features and Open Spaces."

3.1 ~~PHYSICAL LIMITATIONS, NATURAL HAZARDS AND WETLANDS~~

Findings

- ~~• The physical features which form the make-up of any piece of land have a direct relationship to the type and density of development which can be accommodated on that property (carrying capacity). Combinations such as steep slopes and unstable soils create severe development constraints. Excessive development in such physically limited areas greatly increases the potential severity of landslide, earthquake damage, flooding, etc.~~
- ~~• Many portions of the floodplain area contain natural aspects such as significant vegetation, wildlife, and scenic areas, and are valuable for open space and recreation.~~
- ~~• Vegetation serves an essential element in runoff and erosion control, as well as for the protection and natural habitation of wildlife. Nonetheless, it is too often removed and replaced by buildings or impervious surfaces.~~
- ~~• Due to the general nature of soils and geologic mapping, site specific analysis is often necessary to determine the presence of geologic hazards and the severity of soil problems which are constraints to development. Such geologic hazards exist when certain combinations of slope, soil, [and] bedrock and moisture render land unstable.~~
- ~~• Earthflow and slump areas exist in hilly sections of the planning area and are associated with poor drainage, shallow subsurface flow on ground water and springs, and high susceptibility to erosion. Earthflow and slump occurrences can destroy roads and buildings, and adversely affect water quality. Mass movement has not resulted in any major loss of life or property thus far, because little in the way of urban development exists on land with serious problems.~~

- ~~Increased runoff and sedimentation from poorly developed hillsides can require increased public expenditures for flood and erosion control and storm water management.~~
- ~~The City of Tigard had adopted a "Hillside Development Provision" within the Sensitive Lands ordinance which requires additional review of those developments.~~
- ~~The City of Tigard requires new developments to have a storm water runoff plan to ensure against adverse effects such as erosion and sediment.~~

POLICY

- 3.1.1 THE CITY SHALL NOT ALLOW DEVELOPMENT IN AREAS HAVING THE FOLLOWING DEVELOPMENT LIMITATIONS EXCEPT WHERE IT CAN BE SHOWN THAT ESTABLISHED AND PROVEN THE DEVELOPER DEMONSTRATES THAT GENERALLY ACCEPTED ENGINEERING TECHNIQUES RELATED TO A SPECIFIC SITE PLAN WILL MAKE THE AREA SUITABLE FOR THE PROPOSED DEVELOPMENT. (NOTE: THIS POLICY DOES NOT APPLY TO LANDS DESIGNATED AS SIGNIFICANT WETLANDS ON THE FLOODPLAIN AND WETLANDS MAP.):
- a. AREAS MEETING THE DEFINITION OF WETLANDS UNDER CHAPTER 18.26 OF THE COMMUNITY DEVELOPMENT CODE;
 - b. ~~AREAS HAVING A SEVERE SOIL EROSION POTENTIAL;~~
 - c. ~~AREAS SUBJECT TO SLUMPING, EARTH SLIDES OR MOVEMENT;~~
 - d. ~~AREAS HAVING SLOPES IN EXCESS OF 25%; OR~~
 - e. ~~AREAS HAVING SEVERE WEAK FOUNDATION SOILS.~~

(Rev. Ord. 85-13; Ord. 84-36)

IMPLEMENTATION STRATEGIES

- 1. ~~Areas having physical limitations (poor drainage, seasonal flooding, unstable ground) may be subject to policy 3.1.1 of the Comprehensive Plan.~~
- 2. ~~The City shall revise the Sensitive Lands section of the Tigard Community Development Code to identify the standards and define these areas having distinct constraints and limitations.~~
- 3. ~~The City shall cooperate with other agencies to help identify these areas.~~
- 4. ~~The City of Tigard shall provide in the Community Development Code a provision for the City to require site specific soil surveys and geologic studies where potential hazards are identified based upon available geologic and soils evidence. When natural hazards are identified, the City will require that special design considerations and construction measures be taken to offset the soil and geologic constraints present in order to protect life and property, and to protect environmentally sensitive areas.~~
- 5. ~~The Community Development Code shall not permit developments to be planned or located in known areas of natural disasters and hazards without appropriate safeguards. (Rev. Ord. 85-13)~~

3.2 FLOODPLAINS

Findings

- ~~The objective of the City is to use the detailed information gathered on floodplains from the U.S. Army Corps of Engineers, and develop policies to:~~
 - 1. ~~Control development, as to not adversely affect the floodplain and floodway areas;~~

- ~~2. Minimize the runoff erosion impact of development on the surrounding area and downstream properties; and~~
 - ~~3. Emphasize the retention of a vegetative buffer along streams and drainageways, to reduce runoff and flood damage and provide erosion and siltation control.~~
- ~~• In addition, there is the issue of the cumulative effect of development upstream of Tigard. Flood levels in Tigard will be substantially determined by the controls exercised over development outside the plan area, as well as inside Tigard's Planning Area.~~
 - ~~• The Fanno Creek drainage system includes numerous small water courses. The integrity of these natural drainageways is intrinsically connected to the systems capacity to absorb excessive runoff and on subsequent flood levels. Often, however, water courses are altered to provide more usable land. If alterations are done incorrectly, impacts can be adverse. If the impacts are adverse, they can be detrimental to the entire drainage system, i.e., the storage capacity of the water course is lessened and flooding occurs. In fact, in lower reaches, it is beneficial to have more water move through at a faster rate.~~
 - ~~• Besides the basic need to control development in flood prone areas, it was found that public knowledge of flood plain hazards was lacking. Many of the obstructions previously placed in the flood plain were the result of a lack of information and adequate runoff predictions about potential flooding problems. These obstructions (e.g., Main Street Bridge) hinder the flow of high water and tend to increase flood levels.~~
 - ~~• Proper administration of the floodplain areas relies heavily upon the availability of adequate information upon which to assess the environmental impacts of a project. The development, which creates the need, should be responsible for providing the City with the necessary data for making sound decisions. The burden is on the applicant to prove that a project will not adversely affect the environment or create undue future liabilities for the City.~~
 - ~~• The City of Tigard, with assistance from The U.S. Army Corps of Engineers, has established an area designated within the 100-year floodplain.~~
 - ~~• The City of Tigard has been accepted as an eligible area for the National Flood Insurance Program, and as a result flood insurance will be available to property owners in flood prone areas. The federal program, however, requires the City to adopt an ordinance which meets certain federal standards.~~
 - ~~• The City of Tigard currently has ordinances, policies and standards within the Tigard Community Development Code which provide adequate controls for development within floodplain areas.~~
 - ~~• According to the 1981 Drainage Master Plan Study conducted by CH₂M-Hill for the City, flood levels of two to four feet higher than the existing 100-year floodplain may be expected if no corrective measures are taken.~~
 - ~~• To protect the intent of the City's Greenway policy, the Greenway is defined with the same physical boundaries as the 100-year floodplain boundary. (Rev. Ord. 85-13)~~

POLICIES

- ~~3.2.1 THE CITY SHALL PROHIBIT ANY LAND FROM ALTERATIONS OR DEVELOPMENTS IN THE 100-YEAR FLOODPLAIN WHICH WOULD RESULT IN ANY RISE IN ELEVATION OF THE 100-YEAR FLOODPLAIN.~~
- ~~3.2.2 THE CITY SHALL:~~
 - ~~a. PROHIBIT LAND FORM ALTERATIONS AND DEVELOPMENT IN THE FLOODWAY*, EXCEPT ALTERATIONS MAY BE ALLOWED WHICH PRESERVE OR ENHANCE THE FUNCTION AND MAINTENANCE OF THE ZERO FOOT RISE FLOODWAY*; AND~~
 - ~~b. ALLOW LAND FORM ALTERATIONS OR DEVELOPMENT IN THE FLOODPLAIN* OUTSIDE THE ZERO FOOT RISE FLOODWAY* WHICH PRESERVE OR ENHANCE THE FUNCTION OF THE ZERO FOOT RISE FLOODWAY* PROVIDED:~~

~~1. THE LAND FORM ALTERATION AND/OR DEVELOPMENT IS IN AN AREA DESIGNATED COMMERCIAL OR INDUSTRIAL ON THE COMPREHENSIVE PLAN LAND USE MAP, AND FACTORS SET FORTH IN POLICY 3.2.3 CAN BE SATISFIED; OR~~

~~2. THE LAND FORM ALTERATION AND/OR DEVELOPMENT IS ASSOCIATED WITH COMMUNITY RECREATION USES, UTILITIES, OR PUBLIC SUPPORT FACILITIES AS DEFINED IN CHAPTER 18.42 OF THE COMMUNITY DEVELOPMENT CODE AND THE FACTORS SET FORTH IN POLICY 3.2.3 CAN BE SATISFIED.~~

~~3.2.3 WHERE LAND FORM ALTERATIONS AND DEVELOPMENT ARE ALLOWED WITHIN THE 100-YEAR FLOODPLAIN* OUTSIDE THE ZERO-FOOT RISE FLOODWAY*, THE CITY SHALL REQUIRE:~~

~~a. THE STREAMFLOW CAPACITY OF THE ZERO-FOOT RISE FLOODWAY* BE MAINTAINED;~~

~~b. ENGINEERED DRAWINGS AND/OR DOCUMENTATION SHOWING THAT THERE WILL BE NO DETRIMENTAL UPSTREAM OR DOWNSTREAM EFFECTS IN THE FLOODPLAIN* AREA, AND THAT THE CRITERIA SET FORTH IN THE SENSITIVE LANDS SECTION OF THE CODE HAVE BEEN MET (See FIS September 1981);~~

~~c. A BUFFER, EITHER EXISTING OR PLANTED, ON THE COMMERCIAL OR INDUSTRIAL LAND ABUTTING RESIDENTIAL LAND WHICH ADEQUATELY SCREENS THE DEVELOPMENT FROM VIEW BY THE ADJOINING RESIDENTIAL LAND, AND WHICH IS OF SUFFICIENT WIDTH TO BE NOISE ATTENUATING; AND~~

~~d. THE CONSIDERATION OF DEDICATION OF OPEN LAND AREA FOR GREENWAY ADJOINING THE FLOODPLAIN* INCLUDING PORTIONS AT A SUITABLE ELEVATION FOR THE CONSTRUCTION OF A PEDESTRIAN/BICYCLE PATHWAY WITHIN THE FLOODPLAIN* IN ACCORDANCE WITH THE ADOPTED PEDESTRIAN-BICYCLE PATHWAY PLAN.~~

3.2.4 THE CITY SHALL PROHIBIT DEVELOPMENT WITHIN AREAS DESIGNATED AS SIGNIFICANT WETLANDS ON THE FLOODPLAIN AND WETLANDS MAP. NO DEVELOPMENT SHALL OCCUR ON PROPERTY ADJACENT TO AREAS DESIGNATED AS SIGNIFICANT WETLANDS ON THE FLOODPLAIN AND WETLANDS MAP WITHIN TWENTY FIVE (25) FEET OF THE DESIGNATED WETLANDS AREA. DEVELOPMENT ON PROPERTY ADJACENT TO SIGNIFICANT WETLANDS SHALL BE ALLOWED UNDER THE PLANNED DEVELOPMENT SECTION OF THE CODE.

~~3.2.5 THE CITY SHALL REQUIRE THE CONSIDERATION OF DEDICATION OF ALL UNDEVELOPED LAND WITHIN THE 100-YEAR FLOODPLAIN PLUS SUFFICIENT OPEN LAND FOR GREENWAY PURPOSES SPECIFICALLY IDENTIFIED FOR RECREATION WITHIN THE PLAN.~~

~~* The Floodplain and Floodway, as defined by the Flood Insurance Study for the City of Tigard dated effective February 18, 2005.~~

(Rev. Ord. 05-01; Ord. 98-19; Ord. 90-22; Ord. 85-13; Ord. 84-36)

3.3 NATURAL RESOURCES

Findings

- Currently, there are extensive rock and gravel extraction areas located to the north and west of Tigard's planning area within Beaverton and Washington County.

(Rev. Ord. 01-07)

- There is one active mineral or aggregate resource within the Tigard Planning Area, known as the Durham Pits, which is operated by Washington County.



MEMORANDUM

TO: Mayor Craig Dirksen and Members of City Council

FROM: Darren Wyss, Associate Planner

RE: Council Hearing - CPA2007-00002

DATE: December 5, 2007

At the December 4, 2007 City Council meeting, CPA2007-00002 was adopted with revisions that are memorialized below.

Key Findings shall read:

Floods are Oregon's Tigard's most frequently occurring natural disaster.

Goal 7.1 Policy 12 shall read:

The City shall encourage pervious and minimize impervious surfaces to reduce stormwater runoff.



MEMORANDUM

TO: Mayor Craig Dirkson and Members of City Council

FROM: Marissa Daniels, Assistant Planner

RE: Council Hearing - CPA2007-00002

DATE: November 16, 2007

INTRODUCTION

At the December 4, 2007 City Council meeting, a public hearing will be held for CPA2007-00002. The amendment updates the goals, policies, and recommended action measures for the Hazards (Statewide Planning Goal 7) chapter for the updated Comprehensive Plan (see Exhibit A). Current language that is to be deleted is found with a ~~strike through~~. The proposed amendment language was approved and recommended by the Planning Commission at a September 17, 2007 public hearing.

BACKGROUND/DISCUSSION

Council Worksession Summary

The Tigard City Council reviewed the amendment at an October 16, 2007 meeting and made several requests of staff for more information before bringing the language back for the public hearing.

- 1. How does Goal 2 incorporate previous TOPOFF (Top Officials Emergency Exercise, required by the Department of Homeland Security) after events summaries?** The goal does not directly address TOPOFF reports, but does contain a Policy to encourage communication and coordination among agencies and Recommended Action Measures to coordinate preparedness education for residents, provide ongoing training and exercises, coordinate region wide response, and provide information and resources countywide.

Additionally, the Public Facilities and Services chapter contains a Policy to plan for and provide resources to respond to emergencies, collaborate in emergency response, participate in preparedness exercises, and maintain an updated Emergency Operations Plan.

The Tigard Emergency Operations Plan, along with any Plans developed by the Office of Consolidated Emergency Management, would be the most appropriate venue for detailed information on improvements that could be made to our emergency response protocols. The proposed Comprehensive Plan Policies and Recommended Action Measures provide the general direction for this to take place. However, enhancing the Recommended Action Measures to include incorporating information learned from preparedness exercises into the appropriate emergency response plans would also be appropriate.

2. **More information/detail on Federal Emergency Management Agency (FEMA) process to update Flood Insurance Rate Maps (FIRM).** Clean Water Services contracted with Pacific Water Resources to update portions of some floodplains in Washington County. It was funded by an \$800,000 grant from FEMA. The floodplain modeling took place in 2001-2002 and is just now making it to the public review period. For Tigard, the Fanno Creek floodplain was updated after the 1996 floods and adopted in February 2005, so nothing should have changed in the latest study outside of FEMA issued Letters of Map Amendments or Letters of Map Revisions.

FEMA will send a letter to the City, tentatively the end of November 2007, and this will commence a 90-day appeal period where the City or citizens can appeal or protest the maps. An appeal involves scientific evidence that the included base flood elevations are incorrect, while a protest is to change street names, city boundaries, etc.

Once all appeals have been addressed, FEMA will initiate final preparation of the maps and report and they will become effective approximately six months later. The City will need to modify existing ordinances to reflect the new effective date.

3. Where are there areas of localized flooding?

- A.** If the flooding is happening within an identified floodplain, there are rules in place to address the situation. The same is true for flooding occurring within “waters of the state,” which includes non-significant wetlands and smaller streams that do not have mapped floodplains. Property owners can apply with the state for cut and fill permits to address the issues.

- B.** If the flooding is being caused by stormwater runoff, this is addressed in the Goal 11: Public Facilities and Services chapter. This usually occurs because of inadequate capacity for the runoff or obstructed catch basins. Policies are included that require new development to follow adopted standards (CWS Design and Construction Standards) and continued collaboration with CWS in the planning and maintenance of the system. The chapter also contains Recommended Action Measures to identify and map problematic stormwater drainage areas and to identify and pursue funding strategies to address these areas.

Staff did not make any changes to the document of the requirement to hold the public hearing on the proposal as recommended by the Planning Commission. However, if Council wishes to formally direct that these changes be made, the process is as follows:

1. The City Council must hold its public hearing on the recommendations made to it by the Planning Commission;
2. Any changes that Council wishes to make to the proposal must be done in the public hearing;
3. This is necessary for those who have interest in these matters to testify on the record.

Summary of Planning Commission Changes at its Public Hearing

To help the Council in their decision-making process, following is an overview of the general discussion by the Planning Commission on the draft chapter and the major principles included in the recommended language:

Hazards Chapter (Statewide Planning Goal 7)

The Planning Commission made the following revisions at the Public Hearing held on September 17, 2007:

1. Goal 1, Policy 1, would read:

1. The City shall not allow development in areas having the following development limitations except where ~~it can be shown that established and proven~~ **the developer demonstrates that** generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development:
 - A. Areas having a severe soil erosion potential;
 - B. Areas subject to slumping, earth slides, or movement;
 - C. Areas having slopes in excess of 25%; or
 - D. Areas having severe weak foundation soils.

2. Goal 1, Policy 2 would read:

2. The City shall ~~promote~~ **favor** the use of non-structural approaches to hazard mitigation.

3. In order to keep the updated policies in line with the portions of Chapter 3 which have yet to be updated, the Planning Commission recommended amending Policy 3.1.1 of the current Comprehensive Plan (Attachment C) to read:

3.1.1 The City shall not allow development in areas having the following development limitations except where ~~it can be shown that established and proven~~ **the developer demonstrates that** generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development.

The rest (A) would be the same (B, C, D, and E will be stricken and replaced with Goal 1, Policy 1 in the updated Comp Plan). The Natural Resources Policy Interest Team will revisit this policy as they look specifically at wetlands.

In response to the public testimony, the Planning Commission briefly discussed amending the 100-year floodplain definition. Currently the City relies upon FEMA and the US Army Corps of Engineers to map the 100-year floodplain. It was brought to the attention of the Planning Commission that currently some of Tigard's small perennial streams are not included in the FEMA 100-year floodplain maps. This issue is part of the reason Commissioner Vermilyea voted against the motion, and Commissioner Caffall abstained from voting on the motion to recommend approval by City Council of the staff report for CPA 2007-00002 (Hazards).

It is the opinion of staff that this issue is best represented as a map change and not a definition change. There is a FEMA process to delineate specific wetlands and amend the 100-year floodplain map; however, Clean Water Services just submitted 100-year floodplain updates to FEMA in March of 2006. Staff recommends deferring to the expertise of Clean Water Services in delineating the 100-year floodplain boundary.

The major principles included in this chapter revolve around the four state identified

hazards, which apply to Tigard: earthquakes, landslides, floods, and wildfire. The citizens also realized the importance of including hazards which are not called out in Statewide Planning Goal 7, for example, severe weather events and man-made hazards.

The major principles included in the goals, policies, and action measures are:

- Continue collaborating at a regional level to address both natural and man-made hazards;
- Implement practices that reduce the risk of natural hazards;
- Place the burden of proof on the developer to show that generally accepted engineering techniques related to a specific site plan will make the area suitable for proposed development;
- Continue to regulate development in floodplains according to the FEMA 100-year floodplain;
- Encourage the use of non-structural approaches to hazard mitigation; and
- Develop and maintain regulations to protect people and property from man-made and natural hazards.

These principles set a policy direction for the City to move toward the community vision of a future where the character and livability of Tigard is enhanced by the quality of the surrounding environment. Furthermore, it is recognized that expected population growth in the region will require further effort and innovation to protect environmental quality.

Agenda Item:
Hearing Date: September 17, 2007 Time: 7:00 PM



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: COMPREHENSIVE PLAN AMENDMENT TO UPDATE GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES PERTAINING TO STATEWIDE PLANNING GOAL 7: NATURAL HAZARDS

FILE NO.: Comprehensive Plan Amendment (CPA) CPA 2007-00002

PROPOSAL: The City is requesting approval of a Comprehensive Plan Amendment to amend the current Comprehensive Plan Topic 3: Natural Features and Open Space by updating the Goals, Policies, and Recommended Action Measures to reflect current community conditions and values.

APPLICANT: City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

OWNER: N/A

LOCATION: Citywide

ZONING DESIGNATION: All City zoning districts

COMP PLAN: All City comprehensive plan designations

APPLICABLE REVIEW

CRITERIA: Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Topics 1, 2, and 3; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 7, 9, and 11.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission finds this request to meet the necessary approval criteria. Therefore, staff recommends APPROVAL to the Tigard City Council to amend the Tigard Comprehensive Plan to revise Section 3.1 and 3.2 of Topic 3 as determined through the public hearing process.

SECTION III. BACKGROUND INFORMATION

Project History

The Tigard Comprehensive Plan is the primary document that guides land use decisions within the community. It outlines goals, policies, and recommended action measures that are intended to reflect the community's values and aspirations for a broad range of matters relating to land use planning and growth management. It also aims to organize and coordinate the relationships between people, land, resources, and facilities to meet the current and future needs of Tigard.

The Tigard Comprehensive Plan is required by State law and must conform to 12 of the 19 Oregon Statewide Planning Goals. Land development and related activities, including the City's development codes, also must be consistent with adopted Comprehensive Plan goals and policies.

It is now seven years beyond the year 2000 planning horizon of the City's 1983 Comprehensive Plan. Tigard has grown dramatically since 1983, from 18,379 residents to 46,300 today. Jobs and business activity have grown just as fast. Although minor updates have taken place over the years, the 1983 Plan, in many ways, does not reflect current and projected community conditions. For this reason, it is necessary to undertake a thorough update. This is important to ensure the Plan remains a viable tool for decision-makers and citizens to use when seeking policy direction regarding land use and Tigard's future. For this reason, the Tigard City Council has made it a goal to update the Comprehensive Plan.

The first step in updating the Tigard Comprehensive Plan involved City staff developing a fact base to inform the update. The result was the *Tigard 2007* resource document completed in February 2007. Key findings from *Tigard 2007*, combined with community issues and values, form the basis for Plan goals, policies, and recommended action measures. Community issues and values were identified through the community's visioning process and a number of surveys completed over the last several years.

The second step involved community volunteers and stakeholders coming together to develop draft goals, policies, and recommended action measures. These Policy Interest Teams have been meeting over the past several months to discuss Comprehensive Plan topics in which they share an interest. City Department Review Teams then review and provide comment on the work of the policy interest teams. These final draft goals, policies, and recommended action measures are then forwarded to the Planning Commission to begin the legislative process.

Since each of the Policy Interest Teams are moving at their own pace, Staff will be bringing a series of Comprehensive Plan Amendments (CPA) through the legislative process over the next several months. Each CPA will correspond to a Statewide Planning Goal that is applicable to Tigard. The CPA will strike the appropriate language from the existing plan and replace the language with an updated chapter that addresses that particular Statewide Planning Goal.

Hazards (Goal 7) is the second Comprehensive Plan Amendment to update the current Comprehensive Plan. The Planning Commission held a workshop on August 20th to discuss the draft goals, policies, and recommended action measures that were formulated based on the input from the policy interest and department review teams. At the Planning Commission workshop, the following changes were requested (also found in Exhibit A with deleted text as strikeouts and added text bold and underlined):

The Planning Commission requested subheadings be added to the introductory text. The following subheadings have been added to the text:

Earthquake
Wildfire
Landslides
Flooding
Other Hazards

The Planning Commission recommended that “native plant species” be replaced with “non-invasive species” throughout the Comprehensive Plan. Goal 7.1 policy 13 has been updated to reflect this change:

13. The City shall retain and restore existing vegetation with ~~native plant~~ non-invasive species in areas with landslide potential to the greatest extent possible.

Planning Commissioners recommended adding an action measure under Goal 7.1 to research and implement standards to prevent inappropriate land uses in high hazard areas. This action measure reads as follows:

- xii. Research and implement standards to ensure only appropriate land uses are allowed in high hazard areas.

Proposal Description

The primary intent of the proposed changes is to ensure the Comprehensive Plan remains a viable tool for decision-makers. By updating the Comprehensive Plan, the City will ensure it is in compliance with applicable laws, rules, regulations, plans, and programs. As importantly, the update will also ensure the Comprehensive Plan reflects current community conditions and values.

This amendment is the second in a series of amendments that will update the Comprehensive Plan in its entirety. This amendment will update Statewide Planning Goal 7 with goals, policies, and recommended action measures that will serve as the “legislative foundation” in regards to natural hazards. Land use actions and amendments to the Tigard Development Code will be based on the new language included in this amendment.

Below is an explanation of the terms that create the “legislative foundation”:

Goal

Definition - A general statement indicating a desired end or the direction the City will follow to achieve that end.

Obligation - The City cannot take action which violates a goal statement unless:

1. Action is being taken which clearly supports another goal.
2. There are findings indicating the goal being supported takes precedence (in the particular case) over another.

Policy

Definition - A statement identifying Tigard’s position and a definitive course of action. Policies are more specific than goals. They often identify the City’s position in regard to implementing goals. However, they are not the only actions the City can take to accomplish goals.

Obligation - The City must follow relevant policy statements when amending the Comprehensive Plan, or developing other plans or ordinances which affect land use. To amend the Comprehensive Plan, the City must show consistency with the Statewide Land Use Goals. Such an amendment must take place following prescribed procedures prior to taking an action that would otherwise violate a Plan policy.

Recommended Action Measures

Definition - A statement which outlines a specific City project or standard, which if executed, would implement goals and policies. Recommended action measures also refer to specific projects, standards, or courses of action the City desires other jurisdictions to take in regard to specific issues. These statements also define the relationship the City desires to have with other jurisdictions and agencies in implementing Comprehensive Plan goals and policies.

Obligation - Completion of projects, adoption of standards, or the creation of certain relationships or agreements with other jurisdictions and agencies, will depend on a number of factors such as citizen priorities, finances, staff availability, etc.

The City should periodically review and prioritize recommended action measures based on current circumstances, community needs and the City's goal and policy obligations. These statements are suggestions to future City decision-makers as ways to implement the goals and policies. The listing of recommended action measures in the plan does not obligate the City to accomplish them. Neither do recommended action measures impose obligations on applicants who request amendments or changes to the Comprehensive Plan. The list of recommended action measures is not exclusive. It may be added to or amended as conditions warrant.

SECTION IV. SUMMARY OF REPORT

Applicable criteria, findings and conclusions

- Tigard Community Development Code
 - Chapter 18.380
 - Chapter 18.390
- Applicable Comprehensive Plan Policies
 - Topics 1, 2, and 3
- Applicable Metro Standards
 - Title 3 and 13
- Statewide Planning Goals
 - Goals 1, 2, 7, 9, and 11

City department and outside agency comments

SECTION V. APPLICABLE CRITERIA AND FINDINGS

CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Chapter 18.380: Zoning Map and Text Amendments

Chapter 18.380.020 Legislative Amendments to the Title and Map

A. Legislative amendments. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.309.060G

Findings: The proposed amendments to the Tigard Comprehensive Plan would establish policies to be applied generally throughout the City of Tigard; and therefore, the application is being processed as a Type IV procedure, Legislative Amendment, as governed by Section 18.390.060G.

Chapter 18.390: Decision-Making Procedures

Chapter 18.390.020. Description of Decision-Making Procedures

B.4. Type IV Procedure. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

Findings: The proposed amendments to the Tigard Comprehensive Plan will be reviewed under the Type IV procedure as detailed in Section 18.390.060.G. In accordance with this section, the amendments will initially be considered by the Planning Commission with City Council making the final decision.

Chapter 18.390.060.G. Decision-making considerations. The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**
- 2. Any federal or state statutes or regulations found applicable;**
- 3. Any applicable Metro regulations;**
- 4. Any applicable comprehensive plan policies; and**
- 5. Any applicable provisions of the City's implementing ordinances.**

Findings: As indicated pursuant to the findings and conclusions that address applicable Statewide Planning Goals and Regional Functional Plan Titles, the amendment is consistent with this criterion.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable review criteria within the Tigard Community Development Code and recommends the Planning Commission forward these proposed amendments to the City Council with a recommendation for adoption.

CITY OF TIGARD COMPREHENSIVE PLAN POLICIES:

A review of the comprehensive plan identified the following relevant policies for the proposed amendments:

Topic 1: General Policies

Policy 1.1.1: The City shall ensure that:

- a. This comprehensive plan and all future legislative changes are consistent with the Statewide Planning Goals adopted by the Land Conservation and Development Commission, the Regional Plan adopted by the Metropolitan Service District;**

Findings: As indicated pursuant to the findings and conclusions that address applicable Statewide Planning Goals and Regional Functional Plan Titles, the amendment is consistent with this criterion.

Topic 2: Citizen Involvement

Policy 2.1.1: The City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process.

Findings: The proposal has complied with all notification requirements pursuant to Chapter 18.390.060 of the Tigard Community Development Code. This staff report was also available seven days in

advance of the hearing pursuant to Chapter 18.390.070.E.b of the Tigard Community Development Code.

Additionally, a Public Involvement Program for the Comprehensive Plan Update was developed in March 2006. This Program was reviewed and endorsed by the Committee for Citizen Involvement and the Planning Commission. The Program outlined the information, outreach methods, and involvement opportunities available to the citizens during the process.

Information was distributed throughout the process via the project website, an interested parties listserv, Cityscape articles, press releases, articles in the local paper, and two project open houses. Outreach methods also included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and commissions, presentations to high school students, and staff attendance at community events to pass out information.

Involvement opportunities included two open houses, participation on a policy interest team, submitting written comments via the website, and attending the Planning Commission workshop. Additionally, the interested parties listserv and volunteers who signed up for the policy interest teams were provided notice of all meetings held regarding the Comprehensive Plan Update.

As part of the Comprehensive Plan Amendment process, public notice of this Planning Commission public hearing was sent to the interested parties list and published in the August 30, 2007 issue of The Times. Notice will be published again prior to the City Council public hearing. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the text changes could be viewed.

Policy 2.1.2: The opportunities for citizen involvement provided by the City shall be appropriate to the scale of the planning effort and shall involve a broad cross-section of the community.

Findings: As outlined above, the community was given multiple venues to get information and get involved. This included a number of articles in the Cityscape newsletter that is delivered to every household in Tigard. Staff also made a good faith effort to ensure a diversity of citizens and stakeholders were involved in the policy interest team meetings by not only soliciting volunteers, but by inviting organizations that share a common interest in that particular topic.

Policy 2.1.3: The City shall ensure that information on land use planning issues is available in an understandable form for all interested citizens.

Findings: Information regarding the topics included in this Comprehensive Plan Amendment was available in multiple locations in an understandable format for the duration of the process. This included paper and electronic copies that were available in the permit center and also on the website. Information was regularly sent to the project listserv and to the community volunteers who participated on the policy interest teams.

Topic 3: Natural Features and Open Space

Policy 3.1.1: The City shall not allow development in areas having the following development limitations except where it can be shown that established and proven engineering techniques related to a specific site plan will make the area suitable for the proposed development. (Note: This policy does not apply to lands designated as significant wetlands on the floodplains and wetlands map.)

- a. Areas meeting the definition of wetlands under chapter 18.26 of the Community Development Code;
- b. Areas having a severe soil erosion potential;
- c. Areas subject to slumping, earth slides or movement;
- d. Areas having slopes in excess of 25%; or
- e. Areas having severe weak foundation soils.

Findings: Policy 3.1.1 sections (b), (c), (d), and (e) will be replaced with Policy 1 under goal 7.1 in the updated Comprehensive Plan. However, Policy 3.1.1 section (a) deals with wetlands and is therefore not applicable to Goal 7. Section (a) of Policy 3.1.1 will remain in the current Comprehensive Plan until they are updated in the Natural Resources section.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment satisfies the applicable policies contained in the City of Tigard Comprehensive Plan.

Policy 3.2.1: The City shall prohibit any land form alterations or developments in the 100-year floodplain which would result in any rise in elevation of the 100-year floodplain.

Policy 3.2.2: The City shall:

- a. Prohibit land form alterations and development in the floodway* except alterations which preserve or enhance the function and maintenance of the zero-foot rise floodway*, and
- b. Allow land form alterations or development in the floodplain* outside the zero-foot rise floodway* which preserve or enhance the function of the zero-foot rise floodway* provided:
 - 1. The land form alteration and/or development is in an area designated commercial or industrial on the Comprehensive Plan land use map, and factors set forth in policy 3.2.3 can be satisfied; or
 - 2. The land form alteration and/or development is associated with community recreation uses, utilities, or public support facilities as defined in chapter 18.42 of the Community Development Code and the factors set forth in policy 3.2.3 can be satisfied.

Policy 3.2.3: Where land form alterations and development are allowed within the 100-year floodplain* outside the zero-foot rise floodway*, the City shall require:

- a. The streamflow capacity of the zero-foot rise floodway* be maintained;
- b. Engineered drawings and/or documentation showing that there will be no detrimental upstream or downstream effects in the floodplain* area, and that the criteria set forth in the Sensitive Lands section of the code have been met (See FIS September 1981);
- c. A buffer, either existing or planted, on the commercial or industrial land abutting residential land which adequately screens the development from view by the adjoining residential land, and which is of sufficient width to be noise attenuation; and
- d. The consideration of dedication of open land area for greenway adjoining the floodplain* including portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain* in accordance with the adopted pedestrian bicycle pathway plan.

Policy 3.2.5: The City shall require the consideration of dedication of all undeveloped land within the 100-year floodplain plus sufficient open land for greenway purposes specifically identified for recreation within the plan.

*** The Floodplain and Floodway, as defined by the Flood Insurance Study for the City of Tigard dated effective February 18, 2005.**

Findings: Current Comprehensive Plan Policies 3.2.1, 3.2.2, 3.2.3, and 3.2.5 will be deleted and replaced in their entirety by proposed amendment Goal 7.1 and the associated policies (See Exhibit A). This update will ensure the City is in compliance with applicable laws, rules, regulations, plans, and programs. This update will also ensure continued compliance with Statewide Planning Goal 7 as the new goals and policies reflect current community conditions and values. The new goal and policies have been developed through a citizen involvement effort, reviewed by City staff, reviewed by affected agencies, and reviewed by the Planning Commission at an August 20, 2007 workshop.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment satisfies the applicable policies contained in the City of Tigard Comprehensive Plan.

APPLICABLE METRO REGULATIONS:

Metro Urban Growth Management Functional Plan Title 3: Water Quality, Flood Management, and Fish/Wildlife Habitat Conservation - protect beneficial uses and functional values of water quality and flood management resources by limiting uses in these areas from development activities and protecting life and property from dangers associated with flooding.

Findings: In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements for the region. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through the Clean Water Services District's (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

In addition, Clean Water Services, local cities, Washington County, Metro, and Tualatin Hills Park and Recreation District, partnered on a parallel effort to develop the CWS Healthy Streams Plan (HSP), an updated watershed plan designed to enhance the functions of the Tualatin Basin surface water system and address the Clean Water Act and Endangered Species Act (ESA).

The proposed amendment, specifically Goal 7.1 and its associated policies (see Exhibit A), will continue to ensure compliance with Title 3 requirements and standards. The stated purpose of the Flood Management Performance standards is to reduce the risk of flooding, prevent or reduce the risk of loss of life and property, and maintain functions and values of floodplains. Goal 7.1 reflects this purpose, and Policy 11 states explicitly that the City will comply with Metro Title 3 Functional Plan requirements for balanced fill and removal in the floodplain. Also, Policies 7-12 under Goal 7.1 deal specifically with flood hazards.

Metro Urban Growth Management Functional Plan Title 13: Nature in Neighborhoods – conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their

floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

Findings: The multi-jurisdictional approach undertaken by Tualatin Basin jurisdictions was used to develop a program to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). The *Tualatin Basin Fish and Wildlife Habitat Program* was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

The proposed amendment, specifically Goal 7.1 and its associated policies (see Exhibit A), will continue to ensure compliance with Title 13 requirements and standards. Policy 11 provides direction for the City to work with Clean Water Services to protect, restore, and enhance natural drainageways and wetlands.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment satisfies the applicable Metro regulations.

THE STATEWIDE PLANNING GOALS AND GUIDELINES ADOPTED UNDER OREGON REVISED STATUTES CHAPTER 197

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

Findings: This goal was met through an extensive public involvement process. A Public Involvement Program for the Comprehensive Plan Update was developed in March 2006. This Program was reviewed and endorsed by the Committee for Citizen Involvement and the Planning Commission. The Program outlined the information, outreach methods, and involvement opportunities available to the citizens during the process.

Information was distributed throughout the process via the project website, an interested parties listserv, Cityscape articles, press releases, articles in the local paper, and two project open houses. Outreach methods also included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and commissions, presentations to high school students, and staff attendance at community events to pass out information.

Involvement opportunities included two open houses, participation on a policy interest team, submitting written comments via the website, and attending the Planning Commission workshop. Additionally, the interested parties listserv and volunteers who signed up for the policy interest teams were provided notice of all meetings held regarding the Comprehensive Plan Update.

As part of the Comprehensive Plan Amendment process, public notice of this Planning Commission public hearing was sent to the interested parties list and published in the August 30, 2007 issue of *The Times* (in accordance with Tigard Development Code Chapter 18.390). Notice will be published again prior to the City Council public hearing. The notice invited public input and included the phone

number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the text changes could be viewed.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.

Findings: The proposed amendment to the Tigard Comprehensive Plan is being processed as a Type IV procedure, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations, comprehensive plan policies, and City's implementing ordinances, be addressed as part of the decision-making process. Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards
To protect people and property from natural hazards.

Findings: The proposed amendment is consistent with this goal as it provides policy direction that intends to protect both people and property from natural hazards. Current Comprehensive Plan Policies relating to Statewide Planning Goal 7 will be deleted and replaced in their entirety by proposed amendment Goal 7.1 and the associated policies and action measures (See Exhibit A). This update will ensure the City is in compliance with applicable laws, rules, regulations, plans, and programs. This update will also ensure continued compliance with Statewide Planning Goal 7 as the new goals and policies reflect current community conditions and values. The new goal and policies have been developed through a citizen involvement effort, reviewed by City staff, reviewed by affected agencies, and reviewed by the Planning Commission at a August 20, 2007 workshop.

Statewide Planning Goal 9 – Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Findings: The proposed amendment is consistent with this goal as it provides policy direction that intends to protect Tigard's businesses from natural hazards. Hazards protection contributes to economic vitality by protecting current employers and employees from hazards.

Statewide Planning Goal 11 – Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Findings: The proposed amendment is consistent with this goal as it provides policy direction that intends to ensure the efficient arrangement of public facilities and services. Updated policies address the provision of public facilities within areas subject to natural hazards.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment is consistent with the applicable Statewide Planning Goals.

SECTION VI. ADDITIONAL CITY STAFF COMMENTS

The City of Tigard's Public Works Department, Engineering Division, Current Planning Division, and Police Department has had an opportunity to review this proposal and did not respond.

The City of Tigard's Building Division had an opportunity to review this proposal and offered the following comments:

Under Goal 7.1, Recommended Action Measure x.: Because the numbering of building code sections changes from time to time, change section R324 to state the name of the section, "Wildfire Hazard Mitigation."

Findings: Staff agrees with the comments and has added language "Wildfire Hazard Mitigation section" to replace "section R324" of the Oregon Residential Specialty Code. Staff recommends leaving the action measure with the updated language.

Under Goal 7.1, Policy 5 add "the most current" (Building Code standards) to protect the built environment.

Findings: Staff agrees with the comments and has added language "the most current" building code standards to Policy 5. Staff recommends leaving the action measure with the updated language.

SECTION VII. OUTSIDE AGENCY COMMENTS

The following agencies/jurisdictions had an opportunity to review this proposal and did not respond:

City of Beaverton
City of Durham
City of King City
City of Lake Oswego
City of Portland
City of Tualatin
Metro Greenspaces
Oregon Department of Land Conservation and Development
Oregon Department of Environmental Quality
ODOT Region 1 - District 2A
Oregon Department of Geology and Mineral Industries
Oregon Division of State Lands
US Army Corps of Engineers
Washington County Department of Land Use and Transportation
Tigard-Tualatin School District # 23J
Beaverton School District #48
TriMet
FEMA Natural Hazards Program

Metro Land Use Planning & Growth Management, Tualatin Valley Fire & Rescue, and WCCA had an opportunity to review this proposal and have no objections.

Clean Water Services (see Exhibit B) had an opportunity to review this proposal and offered the following comments:

We recommend following the provisions of the current Design and Construction Standards for all issues relating to development, vegetated corridors, erosion control, and preservation of wetlands, natural drainageways, and enhancements thereof.

Findings: Specific standards are to be included in the development code. Currently the CWS Design and Construction Standards are adopted by reference in the Community Development Code. Staff does not recommend Comprehensive Plan text changes to reference specific standards.

Oregon Department of Geology and Mineral Industries (see Exhibit C) had an opportunity to review this proposal and offered the following comments:

Earthquakes

Page 1: The reference to Seismic Zone 3 is from the UBC 1997. Oregon now uses the IBC 2006 and 2007 Structural specialty Code (OSSC) which no longer has seismic zones. This needs to be updated.

Findings: Staff has revised this statement to read, "To minimize loss of life and property from earthquakes, the City requires all new commercial, industrial, and multifamily structures to conform to Oregon Structural Specialty Code requirements for ~~Zone 3 (the second highest hazard code)~~, while single-family construction must conform to the Oregon One and Two Dwelling Specialty Code for seismic category D1.

Page 3: Bullet no.1, The reference to Cascadia..."cause an 8+ magnitude earthquake". Most scientists believe this should be M9+.

Findings: Staff updated this number to be consistent with the Washington County Natural Hazards Mitigation Plan.

Bullet no.3, I'm not quite sure what this is referring too. I think it might be the earthquake induced hazards, such as amplification, liquefaction, landsliding, etc. Just needs to be clear on what is being discussed. There is a big difference between the seismic hazard (IE ground motion hazard) and the earthquake induced hazards.

Findings: Staff updated this finding to read, "According to DOGAMI's relative earthquake hazard data, fifty-eight percent of the City is subject to the greatest earthquake hazard level, with an additional 21% falling into the next hazard level. These areas include developed residential and commercial areas, as well as the Washington Square Regional Center."

Bullet no.5, Again, the UBC 1997 seismic zone 3 needs to be updated to the IBC 2006 and 2007 OSSC.

Findings: Staff updated this key finding to read, "the City of Tigard requires all new commercial, industrial, and multifamily structures to conform to Oregon Structural Specialty Code requirements for ~~Seismic Zone 3~~, while single-family construction must conform to the Oregon One and Two Family Dwelling Specialty Code for Seismic Category D1."

Policies no.2, In the case of seismic retrofitting structures (buildings, bridges, etc.), which is one of the best ways to reduce risk from earthquakes, structural approaches to hazard mitigation should be promoted along with non-structural.

Findings: Staff agrees with this suggestion and the policy now reads, "The City shall promote the use of non-structural approaches to hazard mitigation when appropriate."

Landslides

Page 2: Second paragraph, states "By mapping steep slopes...etc" This is not how we figure out where landslide prone areas are located. We need to acquire LIDAR and map the existing landslides then use geologic information combined with the LIDAR slope data to create landslide susceptibility maps.

Findings: Staff deleted the following sentence: "~~By mapping steep slopes and allowing only appropriate development in these areas the City can limit the impact of landslides on the community,~~ and replaced it with, "The City uses steep slopes to define sensitive lands in the Community Development Code and has special requirements for development in these areas. When LIDAR information is available the City will evaluate the effectiveness of this approach to identifying landslide hazards and limiting their impact on the community."

Page 3: Bullet no. 8, I'm not sure if this is correct?

Findings: Bullet number 8 reads, "The most common type of landslide in Washington County is caused by erosion." The Washington County Natural Hazards Mitigation Plan reads, "Slides caused by erosion are the most common type of landslide in Washington County (Page 5-2)." Staff recommends leaving this key finding in the Comprehensive Plan.

Bullet no. 10, You need to figure out the landslide susceptibility through modern techniques as suggested above before estimates of percentage susceptible should be estimated.

Findings: Staff agrees with this suggestion and updated the key finding to read, "It is estimated about 3% of the City's land, or 286 acres, is ~~vulnerable to landslides~~ greater than 25% slope. ~~In addition, about 4.3 miles of critical streets could be subject to landslide damage.~~

Policies no. 2. Again, non-structural approaches to hazard mitigation should be promoted along with structural.

Findings: Staff agrees with this suggestion and the policy now reads, "The City shall promote the use of non-structural approaches to hazard mitigation when appropriate."

Page 4: no. 5. Once new LIDAR based landslide maps are created, the building codes and or a landslide ordinance should be updated/created and enforced.

Findings: The Building Division suggested the policy be changed to read, "The City shall apply and enforce the most current building code standards to protect the built environment from natural disasters and other hazards." Staff feels this incorporates the changes suggested by DOGAMI.

Some items not included, which should be added include:

- Public education on predisaster mitigation and post disaster recovery.**
- Risk assessment**
- Institutional and/or long term mitigation plans.**

Findings: Public Education and disaster recovery will be addressed in the Public Safety section of the Public Facilities chapter. Both the Hazards Policy Interest Team and the Department Review Team

have made suggestions to be included in this section. Staff added an action measure to address risk assessment and mitigation plans. The action measure reads:

- xii. Complete the Tigard Natural Hazards Addendum to the Washington County Natural Hazards Mitigation Plan and include risk assessments and mitigation action items.

SECTION VIII. CONCLUSION

The proposed changes comply with the applicable Statewide Planning Goals, Metro regulations, the Tigard Comprehensive Plan, and applicable provisions of the City's implementing ordinances.

Therefore, Staff recommends that the Planning Commission recommend approval of the Comprehensive Plan Amendment to the Tigard City Council as determined through the public hearing process.

ATTACHMENT:

EXHIBIT A: PROPOSED AMENDMENTS TO THE TIGARD COMPREHENSIVE PLAN.

EXHIBIT B: CLEAN WATER SERVICES COMMENTS

EXHIBIT C: DOGAMI COMMENTS


PREPARED BY: Marissa Daniels
Associate Planner

September 7, 2007
DATE


APPROVED BY: Ron Bunch
Planning Manager

September 7, 2007
DATE

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
September 17, 2007**

1. CALL TO ORDER

President Inman called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman; Commissioners Anderson, Caffall, Doherty, Fishel, Hasman, Muldoon, and Vermilyea

Commissioners Absent: Commissioner Walsh

Staff Present: Ron Bunch, Long Range Planning Manager; Marissa Daniels, Assistant Planner; Jerree Lewis, Planning Commission Secretary

3. PLANNING COMMISSION COMMUNICATIONS

Commissioner Caffall reported that the CAC met with ODOT. Their final report is ready and they will go to City Council in October. Ron Bunch advised that the meeting with Council will be November 20th. Council will be asked to direct staff to amend the Transportation System Plan. This will allow the City to be in line for grants and other kinds of assistance to implement the Hwy. 99W Plan.

4. APPROVE MEETING MINUTES

Motion by Commissioner Muldoon seconded by Commissioner Caffall to approve the August 6, 2007 meeting minutes as submitted. The motion was approved as follows:

AYES: Anderson, Caffall, Doherty, Fishel, Hasman, Inman, Muldoon, Vermilyea

NAYS: None

ABSTENTIONS: None

EXCUSED: Walsh

Motion by Commissioner Muldoon seconded by Commissioner Hasman to approve the August 20, 2007 meeting minutes as submitted. The motion was approved as follows:

AYES: Anderson, Caffall, Doherty, Fishel, Hasman, Inman, Muldoon, Vermilyea

NAYS: None

ABSTENTIONS: None

EXCUSED: Walsh

5. PUBLIC HEARING

5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2007-00002

Tigard Comprehensive Plan Update of Statewide Planning Goal 7: Natural Hazards

REQUEST: Amendments to the current Comprehensive Plan Topic 3: Natural Features and Open Space by updating the goals, policies and recommended action measures to reflect current community conditions and values. The complete text of the proposed Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments. **LOCATION:** Citywide. **ZONE:** All City zones. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Policies 1, 2, 3 & 7; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 7, 9 and 11.

STAFF REPORT

Assistant Planner Marissa Daniels presented the staff report on behalf of the City. She reported that Hazards (Goal 7) is the second Comprehensive Plan Amendment to update the current Comprehensive Plan. The Planning Commission held a workshop on August 20th to discuss the draft goals, policies, and recommended action measures that were formulated based on the input from the policy interest and department review teams. At the workshop, the Planning Commission requested subheadings be added to the introductory text. The following subheadings have been added to the text: Earthquake, Wildfire, Landslides, Flooding, and Other Hazards.

The Planning Commission also recommended that "native plant species" be replaced with "non-invasive species" throughout the Comprehensive Plan. Goal 7.1 Policy #13 has been updated to reflect this change:

1. The City shall retain and restore existing vegetation with ~~native plant~~ non-invasive species in areas with landslide potential to the greatest extent possible.

Planning Commissioners recommended adding an action measure under Goal 7.1 to research and implement standards to prevent inappropriate land uses in high hazard areas. This action measure reads as follows:

- i. Research and implement standards to ensure only appropriate land uses are allowed in high hazard areas.

Daniels advised that suggestions received from DOGAMI and CWS have been incorporated. In addition to changes in the text, Daniels forwarded 2 suggestions to the Policy Interest Team for the Public Safety Section (undergrounding of utilities and emergency notification of severe weather conditions and consequences).

Daniels advised that she received comments from resident John Frewing. His comments and staff responses are shown in Exhibit A.

Daniels stated that staff finds the proposed changes comply with the applicable criteria and recommends the Planning Commission recommend approval of the amendment to the City Council.

Staff was asked if there are any areas that are at risk, but outside of the 100-year floodplain at this time. Are there high-risk areas on another stream bed? Staff answered no. If it were determined later that there were areas that needed to be added, the City could go through the FEMA process for updating.

PUBLIC TESTIMONY

John Frewing, 7110 SW Lola Lane, Tigard 97223 testified that he would like to add substance to the words regarding hazards. His comment is the same comment that CWS provided to the City. He feels there isn't enough guidance for City staff or citizens as to what is meant by these various terms.

Frewing said he was told by staff that vague terms are intended to trigger engineering site studies. It's his experience that such studies are either not done or are done with no standards at all. Perhaps we should detail what an engineering site study should be.

With regard to his second comment (Exhibit A), he believes the words "promote non-structural approaches when appropriate" are words that say nothing. Tigard should be more clear on what they want to do about non-structural approaches. We could say we "prefer" non-structural approaches to avoiding hazards of floods, etc.

With regard to the 100-year floodplain, Frewing testified that 80% of Tigard's perennial streams are not covered by the Corps of Engineers FEMA study that defines the 100-year floodplain level. He gave Ash Creek and Pinebrook Creek as examples.

Staff advised that the City has undertaken an analysis of flood hazard areas. The Tigard Resource Report shows Ash Creek, Fanno Creek, Summer Creek, Red Rock Creek, and the Tualatin River Basin in the floodplain. In order to apply FEMA regulations, flood areas have to be on the FEMA maps. Map revisions have to be part of a FEMA-approved process in order to be regulated. The City participates in the National Flood Insurance Program. In order to participate in the program, we have to comply with all FEMA standards.

The City has undertaken a drainage master plan that looks at water flows. We've also worked with the Army Corps of Engineers to update the maps. The most recent maps were updated in 2005. The City can ask FEMA to undertake additional studies or to undertake site-specific problems of areas of localized flooding. President Inman noted that it's a very

extensive, expensive process to update FEMA maps. Also, if any of the floodplain maps touch your property, you're required to have additional flood insurance or you have to have an engineer certify that you are outside of the floodplain. When it comes to a property that's not FEMA-mapped, but does have a drainageway through it and is in the process of developing, there are many code standards that CWS addresses to look at the impact of the development.

PUBLIC HEARING CLOSED

Staff confirmed that FEMA is the bare minimum that the City has to do in terms of regulating floodplain. The 100-year floodplain is the basis for the flood insurance program. The Natural Hazards section in the Comp Plan is where we acknowledge that we will comply with FEMA requirements. Statewide Planning Goal #7 obligates the City to comply with FEMA flood regulations.

Commissioner Vermilyea believes it's redundant to put a policy in the Comp Plan when we're already obligated by State law to do it. Ron Bunch said it's important in terms of overall applicability to the Federal Flood Insurance Program. It's an affirmation that we will comply with the law. President Inman disagreed. She believes in goal setting, but she's not sure this is something that needs a higher goal set. Is there a fundamental need to set a higher standard?

Commissioner Muldoon noted that, typically, state & federal regulations are looking for demonstration of due diligence and intent to comply. Its absence poses a negative for the City. When we talk about redundancy, we're talking about eliminating evidence of willingness to comply.

Ron Bunch advised that there is some leeway as to what extent jurisdictions have to comply with FEMA regulations. Some communities allow much more development in the floodplain than is possible in Tigard or other Metro communities. Tigard has adopted a strict standard in which there is 0' rise allowed in the floodway.

Commissioner Muldoon asked about action measures for pre-positioning any kind of floodflow devices (e.g., sandbags or barriers). Staff said that sort of thing would be more appropriate in a hazard mitigation plan. Mitigation plans contain tactics to address this kind of thing.

To keep the language from being confusing and vague in both Policy 7.1.1 (Natural Hazards) and Policy 3.1.1 (Natural Features and Open Space), the following change was suggested for both policies: "The City shall not allow development in areas having the following development limitations except where ~~it can be shown that established and proven~~ **the developer demonstrates that generally accepted** engineering techniques related to a specific site plan will make the area suitable for the proposed development:..."

Discussion was held about the use of non-structural approaches to hazard mitigation. Staff said this could mean:

- don't develop in floodplains, there is a 0' rise
- less density on steep slopes; roads could be graded along the contours only in those areas that don't require extensive structural modification
- in areas subject to wildfires, defensible space type techniques could be used
- earthquakes would require a structural approach

Staff advised that with Policy #7.1.2, the onus would be on the City to utilize non-structural approaches to hazard mitigation. Some of the action measures would have to be incorporated into the Development Code. Currently, the Development Code is very structurally oriented.

After further discussion, it was decided to change the language for Policy 7.1.2 to read: "The City shall ~~promote~~ favor the use of non-structural approaches to hazard mitigation ~~when~~ appropriate."

Motion by Commissioner Doherty seconded by Commissioner Muldoon for a recommendation of approval by City Council of the staff report for CPA 2007-00002 with the following changes:

- Under Policy #1, it would read, "The City shall not allow development in areas having the following development limitations except where the developer demonstrates that generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development." The rest (A, B, C, D) would be the same.
- Policy #2 would read, "The City shall favor the use of non-structural approaches to hazard mitigation."
- Policy 3.1.1 would read, "The City shall not allow development in areas having the following development limitations except where the developer demonstrates that generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development."

The motion was approved as follows:

AYES: Anderson, Doherty, Fishel, Hasman, Inman, Muldoon

NAYS: Vermilyea

ABSTENTIONS: Caffall

EXCUSED: Walsh

6. OTHER BUSINESS

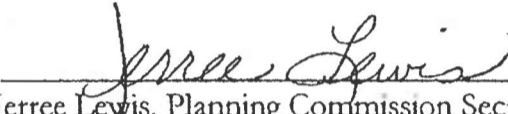
None

7. ADJOURNMENT

The meeting was adjourned at 8:55 p.m. and then reopened to allow for clarification of the vote. Commissioner Vermilyea stated that he voted against the motion, not because of the amended language with respect to 7.1, but rather with the fact that we are putting in our Plan statements that we will comply with existing law that we already have obligations to comply with. There are 2 separate incidents in this proposal. He thinks it's bad policy to do that because it clogs up the statute and makes it unclear. He also believes we didn't do enough to address the issue of the 100-year floodplain. It should have been addressed in more detail.

Commissioner Caffall advised that he abstained from voting on the motion primarily because of the 100-year floodplain issue and that we did not address the secondary stream issues. He's also a little confused on where the overall language is going to end up.

The meeting adjourned at 9:03 p.m.



Jerree Lewis, Planning Commission Secretary



ATTEST: President Jodie Inman

From: "John Frewing" <jfrewing@teleport.com>
To: "Marissa Daniels" <Marissa@tigard-or.gov>
Date: 9/17/2007 3:10:21 PM
Subject: Comments for Hazards Section, Tigard Comp Plan

EX. A

Marissa,

Below are John Frewing comments on your draft Hazards section of the new Tigard Comp Plan. The gist of these comments is that we in Tigard can do better than proposed in your policies to prevent and manage hazards. Please give to the Planning Commission at the start of this evening's hearing.

1 In at least several instances, the avoidance of definitions or the use of very narrow definitions reduce the effectiveness of policies. For example, reference to 'established and proven engineering techniques' and reference to 'severe soil erosion', 'subject to slumping, earthslides or movement', 'slopes in excess of 25%' and 'severe weak foundation soils' in draft Policy 1 of Goal 1 do not state a clear policy. The record of developing this policy give no guidance to staff or citizens on the degree of protection which the city intends. In other discussion, findings and policies, (ie for other issues), reference is made to codes or texts which define important terms, but not for Policy 1. For example, the measurement of slopes in excess of 25% is a much debated item and exists with great precision in CWS materials. For example, should one measure from one edge of the property to another and see if 25% is exceeded? Should one use 2-foot, 10-foot or 50-foot segments to measure slope? Where should one start to measure slope? I urge the Planning Commission to direct staff to provide definitions of the operative terms in the policies proposed before Planning Commission approval.

2 The wording of Policy 2 of Goal 1 is 'weak kneed' at best. Tigard should do more than 'promote' non-structural approaches to avoiding hazards, whatever 'promote' might mean. Tigard should identify, regulate and enforce the use of non-structural approaches. The use of the 'when appropriate' term basically says nothing, giving no guidance to staff as to appropriate conditions for use of non-structural measures. This 'when appropriate' term also allows dangerous developers to argue that a given situation is not 'appropriate'. I urge the Planning Commission to direct staff to make Policy 2 meaningful.

3 Policies 7, 8 and 9 of Goal 1 refer to a 100-year flood, a very important concept in avoiding hazards in any community. However, as used in these policies, it refers only to the locations defined as being subject to a 100-year flood in documents issued by FEMA. The 100-year flood exists on every stretch of every stream, whereas FEMA only maps the 100-year flood on Fanno Creek and the very lowest portions of tributaries. Tigard should eliminate hazards associated with floods by applying its setbacks, floodproofing and development limits to all portions of all streams and their associated 100-year flood levels and flows. I urge the Planning Commission to direct staff to clarify that reference to 100-year floods and streamflows apply to all portions of all streams.

4 Policy 2 of Goal 2 should be strengthened. Certainly communication among agencies is a mandatory function of city government regarding things like pest infestations and communicable diseases. However, Tigard citizens deserve more than that. Other cities have workable regulations regarding standing water (west nile virus, mosquito breeding) and bird-transmitted diseases. I urge the Planning Commission to direct staff to research and draft policies that will ensure later staff development of regulations to manage such hazards.

Thank you, John Frewing 7110 SW Lola Lane, Tigard, OR 97223

Staff Response to Comments submitted by John Frewing on September 17, 2007:

1. Suggested definitions: The degree of protection
 - a. 'established and proven engineering techniques'
 - b. 'severe soil erosion'
 - c. 'subject to slumping, earthslides, or movement'
 - d. 'slopes in excess of 25%'
 - e. 'severe weak foundation soils'

Staff Response:

Staff recommends against writing specific definitions for these terms. Policy 1 reads almost identically to Policy 3.1.1 of the current Comprehensive Plan. Presently, definitions of these terms are not included in the Comprehensive Plan as the degree of protection is determined by an engineer's site-specific analysis. The bottom line is that established and proven engineering techniques can change over time, and the other definitions are best left to an engineering geologist. General definitions may be appropriate for a future code update, but are best left out of the Comprehensive Plan.

2. Policy 2 of Goal 7.1: Suggested policy language
Identify, regulate, and enforce the use of non-structural approaches to hazard mitigation.

Staff Response: This policy was amended to reflect the comments of the Oregon Department of Geology and Mineral Industries (DOGAMI). While non-structural approaches to hazard mitigation are appropriate for protection against landslides and flooding, structural approaches to earthquake mitigation are more appropriate. For wildfire, both structural (i.e. roof composition) and non-structural (i.e. the creation and maintenance of defensible space) are important. Thus, this policy has been revised to read, "The City shall promote the use of non-structural approaches to hazard mitigation when appropriate."

3. Policies 7, 8, and 9: The definition of the 100-year floodplain

Staff Response: Staff recommends against revising the definition of the 100-year floodplain to include all streams and areas that might be within their respective 100-year floodplains. It is the intent of this suggestion that Tigard should eliminate all hazards associated with floods. This is not possible. This suggestion was also brought up at the first Policy Interest Team meeting (PIT). Other members of the PIT discussed that the City could spend its entire budget on hazards mitigation and still be vulnerable to the unimaginable. FEMA and The Army Corps of Engineers are really the experts in this field. Furthermore, FEMA standards allow for study and designation of additional flood areas if done according to approved criteria and certified by the Corps. This would result in a map change, not a definition change.

4. Policy 2 of goal 7.2: Research and draft policies to manage hazards such as pest infestations and communicable diseases.

Staff Response: Again, this section of the Comprehensive Plan goes above and beyond Statewide Planning Goal 7. The number of possibilities for inclusion in this section is limitless. This policy is intended to be specifically about communication. The mitigation plan is a more appropriate place to include hazard specific risk assessments and mitigation action items. Staff recommends against revising this policy to include all possible scenarios.



MEMORANDUM

TO: Mayor Craig Dirkson and Members of City Council

FROM: Marissa Daniels, Assistant Planner

RE: Council Workshop - CPA2007-00002

DATE: October 1, 2007

At the October 16th City Council meeting, staff will present the proposed goals, policies, and recommended action measures (see the end of this memo for definitions and obligations) for the Hazards (Statewide Planning Goal 7) chapter of the updated Comprehensive Plan. The proposed language was approved and recommended by the Planning Commission at the September 17th public hearing. Staff will discuss the proposed language, answer questions, and provide any requested information that will help assist Council in making its decision at the November 27th public hearing.

Throughout the process of working with citizens, City departments, and the Planning Commission, staff has stressed that proposed Comprehensive Plan language must be capable of being implemented and in the interest of the whole community.

Staff has worked closely with citizen stakeholders to explain the implications of certain policy recommendations. Most of the time, the process has achieved a consensus outcome. In staff's role as facilitators, we presented the best professional advice possible to all involved. Sometimes this professional advice was contrary to the wishes of the citizens, but staff has not unilaterally changed or removed citizen recommendations. It is the role of the Planning Commission to recommend, and the City Council to determine, City policy.

The general discussion by the Planning Commission on the Hazards chapter and the major principles included was as follows:

Hazards Chapter (Statewide Planning Goal 7)

The key principles included in this chapter revolve around the four state identified hazards, which apply to Tigard: earthquakes, landslides, floods, and wildfire. The citizens also realized the importance of including hazards which are not called out in Statewide Planning Goal 7, for example, severe weather events and man-made hazards.

The Planning Commission engaged in a long and thoughtful deliberation on a few policies and recommended action measures. To clarify the language in both Policy 7.1.1 (Natural Hazards) and Policy 3.1.1 (Natural Features and Open Space), the Planning Commission recommended clarifying that the burden of proof is on the developer to show that generally accepted engineering techniques are able to make an area susceptible to hazards suitable for a proposed development.

In Policy 7.1.2 the Planning Commission debated the words “promote” and “when appropriate” in reference to the use of non-structural approaches to hazard mitigation. The Planning Commission eventually reached a consensus to strengthen the Policy to read that the City will favor the use of non-structural approaches to hazard mitigation. “When appropriate” was originally added to the policy language in response to comment by the Oregon Department of Geology and Mineral Industries that non-structural approaches are not appropriate for all types of hazards. For example, earthquake hazards really require structural approaches to mitigation.

In response to the public testimony, the Planning Commission briefly discussed amending the 100-year floodplain definition. Currently the City relies upon FEMA and the US Army Corps of Engineers to map the 100-year floodplain. It was brought to the attention of the Planning Commission that currently some of Tigard’s small perennial streams are not included in the FEMA 100-year floodplain maps. This issue is part of the reason Commissioner Vermilyea voted against the motion, and Commissioner Caffall abstained from voting on the motion to recommend approval by City Council of the staff report for CPA 2007-00002 (Hazards).

It is the opinion of staff that this issue is best represented as a map change and not a definition change. There is a FEMA process to delineate specific wetlands and amend the 100-year floodplain map; however, Clean Water Services just submitted 100-year floodplain updates to FEMA in March of 2006. Staff recommends deferring to the expertise of Clean Water Services in delineating the 100-year floodplain boundary.

In summary, the following language changes were recommended by the Commission:

1. Goal 1, Policy 1, would read:
 1. The City shall not allow development in areas having the following development limitations except where ~~it can be shown that established and proven~~ **the developer demonstrates that** generally accepted engineering techniques related to a specific site plan will make the area suitable for the proposed development:
 - A. Areas having a severe soil erosion potential;
 - B. Areas subject to slumping, earth slides, or movement;
 - C. Areas having slopes in excess of 25%; or
 - D. Areas having severe weak foundation soils.
2. Goal 1, Policy 2 would read:
 2. The City shall ~~promote~~ **favor** the use of non-structural approaches to hazard mitigation.
3. In order to keep the updated policies in line with the portions of Chapter 3 which have yet to be updated, the Planning Commission recommended amending Policy 3.1.1 of the current Comprehensive Plan (Attachment C) to read:
 - 3.1.1 The City shall not allow development in areas having the following development limitations except where ~~it can be shown that established and proven~~ **the developer demonstrates that** generally accepted engineering techniques related to a specific site plan will make the

area suitable for the proposed development
The rest (A) would be the same (B, C, D, and E will be stricken and replaced with Goal 1, Policy 1 in the updated Comp Plan). The Natural Resources Policy Interest Team will revisit this policy as they look specifically at wetlands.

Definitions and Obligations of Goals, Policies, and Recommended Action Measures Tigard Comprehensive Plan

Comprehensive Plan goals, policies, and recommended action measures have different definitions and impart different obligations to decision makers. They also relate differently to one another. The following describes goals, policies, and recommended action measures in greater detail.

Goals, policies, and recommended action measures identify the intent of the City to accomplish certain results. The goals and policies relate to one another and are obligations the City wishes to assume. Recommended action measures support the obligations to achieve a desired end, but do not signify an obligation themselves.

Goal

Definition - A general statement indicating a desired end or the direction the City will follow to achieve that end.

Obligation - The City cannot take action which violates a goal statement unless:

1. Action is being taken which clearly supports another goal.
2. There are findings indicating the goal being supported takes precedence (in the particular case) over another.

Policy

Definition - A statement identifying Tigard's position and a definitive course of action. Policies are more specific than goals. They often identify the City's position with regard to implementing goals; however, they are not the only actions the City can take to accomplish goals.

Obligation - The City must follow relevant policy statements when amending the Comprehensive Plan, or developing other plans or ordinances which affect land use. To amend the Comprehensive Plan, the City must show consistency with the Statewide Land Use Goals. Such an amendment must take place following prescribed procedures prior to taking an action that would otherwise violate a Plan policy.

Recommended Action Measures

Definition - A statement which outlines a specific City project or standard which, if executed, would implement goals and policies. Recommended action measures also refer to specific projects, standards, or courses of action the City desires other jurisdictions to take in regard to specific issues. These statements also define the relationship the City desires to have with other jurisdictions and agencies in implementing Comprehensive Plan goals and policies.

Obligation - Completion of projects, adoption of standards, or the creation of certain relationships or agreements with other jurisdictions and agencies, will depend on a number of factors such as citizen priorities, finances, staff availability, etc.

The City should periodically review and prioritize recommended action measures based on current circumstances, community needs, and the City's goal and policy obligations. These statements are

suggestions to future City decision-makers as ways to implement the goals and policies. The listing of recommended action measures in the plan does not obligate the City to accomplish them. Neither do recommended action measures impose obligations on applicants who request amendments or changes to the Comprehensive Plan. The list of recommended action measures is not exclusive. It may be added to, or amended, as conditions warrant.