



TO: LANE COUNTY PLANNING COMMISSION

CC: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Keir Miller, Associate Planner

AGENDA ITEM TITLE: **WORK SESSION** / CONTINUED DISCUSSION - PROPOSED AMENDMENTS TO THE FLOODPLAIN COMBINING ZONE (LC 10.271, LC 16.244)

1. **MOTION**

No motion is being proposed at this time. This is a work session discussion item only.

2. **AGENDA ITEM SUMMARY**

The Planning Commission is being asked to review proposed changes to Lane County's floodplain ordinance.

3. **DISCUSSION**

On July 5, 2010, the Land Management Division provided a general overview of proposed changes to Lane County's floodplain ordinance. Additional background information regarding the need for the proposed changes was presented by Karl Morgenstern, Source Water Protection Coordinator for the Eugene Water and Electric Board, and member of the Board of Commissioners' appointed technical advisory committee (TAC) for this project.

At the July 5th meeting, staff informed the Planning Commission that specific code changes would be provided for discussion and review at the July 20th LCPC work session. The proposed amendments are listed below. The specific code amendment language is included in legislative format as Attachment "A" to this memo and in final format as Attachment "B".

Proposed Changes

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|---|---|
| 1 | Remove definitions to: "Existing Manufactured Home Park or Subdivision", "Expansion to an Existing Manufactured Home Park or Subdivision" (required) |
| 2 | Update standards regarding manufactured home parks in the FP (required) |
| 3 | Include missing standards regarding "AO" flood zones added (required) |
| 4 | Eliminated references to AH and numbered A zones (required) |
| 5 | Require temporary encroachments in floodway to meet standards specified in FEMA guidance document (required) |
| 6 | Codify existing requirements related to agricultural buildings in the floodplain (required) |
| 7 | Update substantial improvement definition to limit/discourage incremental |

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| | development in the FP (A.K.A. cumulative improvement clause) |
| 8 | Revise duties and responsibilities of Floodplain Administer based on model language |
| 9 | Require critical facilities to be sited outside the FP |
| 10 | Prohibited development within the floodway for most uses unless this standard would deny any reasonable use of the property – then minimize development |
| 12 | Prohibit land divisions and property line adjustments in the floodway unless a development site is identified outside of the floodway on the newly proposed / reconfigured parcel(s) |
| 13 | Prohibit new fencing in the Floodway unless it is built to breakaway or pass through standards |
| 15 | Require secondary containment for hazardous materials stored within the SFHA |
| 16 | Include additional freeboard requirements |
| 17 | Require septic systems to be setback from the FP where feasible |
| 18 | Update soil pressure foundation requirement from 1000 psf to 1500 psf |
| 19 | Require the location of the floodplain to be shown on all recorded final plat documents for land divisions. |
| 20 | Add standards for the “wet flood-proofing” of accessory structures |
| 21 | Add standards for the placement and use of fill in the FP |
| 22 | Add standards for the alteration of a watercourse (including provisions for bridges and culverts) |
| 23 | Modify variance standard to eliminate option for a variance in the floodway for residential purposes. |
| 24 | Add/modify definitions for: Area of Special Flood Hazard, Bankfull Stage, Breakaway Wall, Development, Critical Facility, Datum, Digital FIRM, Encroachment, Flood Hazard Determination, Floodway, Flood Protection Elevation, Freeboard, Hazardous Materials, Highest Adjacent Grade, Letter of Map Change, Lowest Floor, Manufactured Dwelling, Market Value, Mean Sea Level, Natural Elevation, New Construction, Secondary Containment, Start of Construction, Substantial Damage |

In addition to these proposed changes, the TAC also recommended that structural setbacks be required from all flood sources and/or that all development be prohibited from the SFHA if an alternative location is available a lot or parcel. At this time, staff is working with Legal Counsel to determine if such proposed amendments could expose the County to any liability under a Ballot Measure 49 / regulatory takings claim. Pending the analysis by Legal Counsel, these changes may be forwarded to the LCPC, but at this time they are not included in the amended code language.

4. **ANALYSIS**

The proposed amendments fall within two general categories:

1. Changes that are required to correct a deficiency with the existing code language or, which are needed to address a change in state or federal requirements (these are the items 1-6, identified in the list of proposed amendments) and;
2. Changes which are not required but which would implement an identified floodplain management best practice or higher regulatory standard.

If Lane County wishes to remain a participating member of the National Flood Insurance Program, then items 1-6 must be addressed and there are no policy options to be weighed or considered regarding these changes.

Of the remaining 18 or so remaining non-mandatory amendments only a smaller subset are likely to be highly controversial. These include items # 7,10 ,12 and 17.

A synopsis for each of these items is provided below:

Item #7:

Buildings built before adoption of the floodplain regulations are often subject to repeated flooding, repeated damage, and repeated flood insurance claims and federal disaster assistance payments. The NFIP regulations address a portion of this problem by requiring that substantially damaged and substantially improved buildings be brought up to the same standards as new buildings. However, only a small percentage of the existing buildings are substantially damaged or substantially improved and subject to these requirements.

Item #7 would help address this issue by counting improvement and repair projects cumulatively so that buildings will be brought into compliance with flood protection standards sooner. Additionally, the proposed definitions of substantial improvement and substantial damage would lower the threshold for what are considered “substantial” from 50 % currently, down to 25%. The FEMA Community Rating System (CRS) provides credit for communities that make these changes.

Item #10

This code change would reduce the amount of development that could potentially occur within the floodway, which is generally the most hazardous portion of the floodplain. The proposed amendments would not limit all development and certain exceptions for public projects, utilities, etc., are provided. In addition, there are development options included in the proposed language that would enable uses allowed under the underlying base zone, if the proposed changes would deny any reasonable use of the property. However, the size and location of proposed structures would be strictly regulated. FEMA encourages communities to further regulate development in the floodway and this change would be creditable under the CRS.

Item #12

The current floodplain regulations contain language that attempts to reduce the number of new developable parcels that can be created in the floodway by prohibiting land divisions if the entire resulting lots or parcels would be entirely within the floodway. This requirement can be circumvented by individuals who divide land in a manner that leaves a small fraction of the remaining lots outside of the floodway. This proposed change would close this loophole and require that any lots created have a demonstrable building envelop entirely outside of the floodway.

Item #17

Item 17 would require that new and replacement septic systems are setback a minimum of 25 feet from the floodplain whenever there is sufficient area on a lot to do so. For lots that are entirely within the floodplain or, which contain soils outside of the floodplain that are inadequate for standard systems, then septics may be placed inside the floodplain. However these systems must be located as far away and at an elevation as high above the flood source as is practical. Credit under the CRS is available for this change.

5. FOLLOW UP/NEXT STEPS

Two additional works session for this project have been scheduled for August 3 and 17. The focus of these work sessions will shift and the majority of meeting time will be spent reviewing newly proposed drinking water protection overlay zone language. However, if there are follow up questions regarding proposed changes to the floodplain ordinance staff will make an effort to provide that information during future scheduled work sessions.

6. ATTACHMENTS

- A. Proposed Amendments to Lane Code 16.244. (legislative format)
- B. Proposed Amendments to Lane Code 16.244. (final format)