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AGENDA BAY CITY PLANNING COMMISSION MEETING April 19, 2023 5:30 P.M.

- 1. CALL TO ORDER 5:30 P.M.
- 2. MINUTES
 - a. Planning Commission Meeting 03/15/2023.
- 3. VISITORS PRESENTATION
- 4. UNFINISHED BUSINESS
 - a. None.
- 5. NEW BUSINESS/ PUBLIC HEARINGS
 - a. Setback Variance V-2023-02, to reduce the required 10 ft rear yard setback by approximately 4 ft for an addition to the garage on the property located at 4635 Spruce Street, Bay City, Oregon 97107
- 6. OTHER
 - Review of Modifications to the Implementation of the National Flood Insurance Program in Oregon.
- 7. PLANNING COMMISSION, CITY COUNCIL AND CITY PLANNER CONCERNS
 - a. Planning Commission Chair Resignation and Interim Re-election
 - b. City Planner Monthly Report
 - ▶ Planning Correspondence Articles ◀
 - c. 'Flood Insurance: Proposed FEMA changes met with harsh criticism'
 - d. 'Homelessness State of Emergency: By the numbers'
 - e. 'Oregon's recent growth in homelessness among largest in nation'
 - f. 'Legislature considers opening up farmland for chipmakers'
 - g. 'Commissioners Award \$66,000 grant to Workforce Housing Development'
 - h. 'Study Less Restrictive Zoning can Increase Supply of Market-rate Housing, New Research Shows'
 - i. 'Oregonians Ambivalent About Population Growth'
 - North Plain in Home Stretch to Expand UGB'
- 8. ADJOURNMENT

To attend by phone: (518) 992-1125 Access 389573#



Planning Commission Draft Minutes
March 15, 2023



BAY CITY PLANNING COMMISSION MEETING MINUTES March 15, 2023 6:00 P.M.

1. Call To Order – Commission Chair Pat Vining called the meeting to order at 6:00 P.M. He asked staff for a roll call

City Planner David Mattison called each of the members – Dan Overholser had an excused absence.

2. Minutes – the minutes for the February 15, 2023 meeting were available for review.

Commission Member Jasper Lind made a motion to approve the February meeting minutes as presented.

The motion was seconded by Commission Member Penny Eberle.

All were in favor. The motion passed unanimously.

3. Visitors Presentation

There were no scheduled 'visitor' presentations.

4. Unfinished Business

There was no unfinished business.

5. New Business/ Public Hearings

a. Temporary Use Permit (TU-2023-01) for the extended Kichis Point Reserve Camp Host.

Commission Chair Vining stated this was continuation of an earlier temporary use application from last year. He asked the members if there was any ex parte contact, a conflict of interest, or bias from commission members.

Commission members Penny Eberle, Pat Vining and Gary Frey mentioned that they visit the site.

There was no challenge from the audience.

Commission Chair Vining read the Planning Commission Order of procedures for the temporary use review, and the disclosure statement. He asked staff to present a summary of the application and request.

City Planner David Mattison presented the request for the annual extension of the Temporary Use Permit application. He presented the written summary and requested condition that the annual extensions of the temporary use for the camp host be handled administratively to the Planning Commission.

Chair Vining asked if there were any questions of staff.

Commission Member Eberle stated she is concerned with the number of vehicles and boat onsite.

Chair Vining also has concerns with the number of vehicles and boat onsite.

Further discussion followed.

Commission Member Jasper Lind asked about a drive approach for the camp host.

Chair Vining asked the applicant to present their request.

Payton Tracy, the Pioneer Museum executive director, presented her request for continuation of the temporary use for the camp host. She described the placement of the RV pad and described vehicle access onsite. She described the work and improvements the camp host has made. She stated that a boat relocation had been a concern that had been brought up.

City Planner read a letter of support for the continued use of a camp host in the park.

Chair Vining asked if there were any comments in support of the temporary use request.

Mark Harguth, Sheltered Nook, stated that the addition of a camp host provided dramatic improvements to the park and surroundings, and his guests were threatened in the past, but no more with the presence of the camp host. Therefore, he supports continuation of the camp host.

Cathy Reams, 9th and Main, Bay City, stated support for the camp host. She said 'ditto' to the letter of support.

Chair Vining closed the public hearing and opened the planning commission discussion.

Commission member Penny Eberle stated she appreciates the trail as well and presented some questions of boat parking at the camp host site.

Chair Vining stated he had additional concerns with history behind his concerns.

Commission Member Eberle stated she appreciates the improvements on the trail and in the park. She is concerned with the number of vehicles onsite which detracts from the beauty of park.

Mark Harguth, asked if he could speak, and stated he would be willing to store the boat at Sheltered Nook for no fee.

Further discussion followed.

Chair Vining asked for description of a condition for the parking issue.

Further discussion followed regarding driveway construction for the camp host and motion development.

Chair asked if the Commission was ready to make a motion.

Commission Member Lind made a motion to to approve the Temporary Use Permit #TU-2023-01 as stated in the staff report, with the additional condition for the applicant to pave 2 parking spaces at the driveway, without the location of the boat onsite.

The motion was seconded by Commission Member Eberle. There was no further discussion. The motion passed unanimously.

Chair Vining stated the appeal period.

b. Setback Variance #V-2023-01

Commission Chair Vining read the Planning Commission Order of procedures for the setback variance review, and the disclosure statement. He asked the members if there was any ex parte contact, a conflict of interest, or bias from commission members.

Commission Member Gary Frey stated he had visited the site. He recognized the conditions of the property and the reason for the variance request.

Commission Chair Vining asked staff to present a summary of the application and request.

City Planner David Mattison presented the request for the setback variance request.

Chair Vining asked they were setting a precedence by granting a variance.

City Planner stated that each variance application is handled individually.

Chair Vining asked the applicant to present their request.

Kurt Victor, 100 SW 195th, Beaverton, OR, presented his request and described the challenges for development onsite with the slopes

Chair Vining asked if there were any comments in support of or against the setback variance request.

There were none.

Chair Vining asked about access to the property.

City Planner stated that there were a number of options for access.

Commission Member Lind asked about the size requirements from the HOA.

Further discussion followed in regard to access and street improvements.

Chair Vining closed the public hearing and opened the planning commission discussion.

Commission Member Frey discussed the Mona Rose road improvements on E Street. He stated he has a positive outlook for granting the variance request.

Further discussion followed.

Commission Member Lind made a motion to approve and grant the variance request based on the findings presented by staff.

The motion was seconded by Commission Member Eberle. The motion passed unanimously.

Chair Vining stated the appeal period.

6. Planning Commission, City Council and City Planner Concerns

City Planner David Mattison presented his monthly report for the month of February.

Further discussion followed.

7. Adjournment

Acknowledged:

Pat Vining, Chair

A motion was made by Commission Member Lind to adjourn the meeting.

The motion was seconded by Commission member Eberle.

The motion was approved unanimously.

The meeting was adjourned at 7:06p.m.

Date Signed



Planning Commission Public Hearing Setback Variance #V-2023-02



City of Bay City

Variance V-2023-02 Report

To:

City of Bay City Planning Commission

From:

David Mattison, City Planner

Applicant: Christina Olsen

Title:

Request for a Setback Variance to reduce the 10 ft rear yard setback by approximately 4 feet.

Case File

#V-2023-02

Nature of the Application:

The applicant is requesting to reduce the required 10 ft front yard setback by approximately 4 ft for remodel and expansion of the garage on the subject property. The rear yard side of the subject property is located on the south side of the property at 4635 Spruce Street.



View of proposed location of garage expansion (looking south onsite)



Relevant Facts:

The following is a summary of the facts and testimony found to be relevant to this decision.

- 1) PROPERTY LOCATION: The property is located on the south side of Spruce Street at 4635 Spruce Street, Bay City, Oregon, 97107, and is further identified on Tillamook County Assessor's Map #1S102CC Tax Lot 1500.
- 2) LOT SIZE: approximately 0.25 acres
- 3) ZONING DESIGNATION: Shorelands 3 Zone (S3)
- 4) SURROUNDING LAND USE: The subject property is adjacent to residentially developed lots to the north, south, east and west. The adjacent lots to the north, south, east and are in the Shorelands 3 Zone (S3).
- 5) EXISTING STRUCTURES: There is an existing house and garage on the subject property.
- 6) DEVELOPMENT CONSTRAINTS: The lot is generally level.

Relevant Criteria:

a. Bay City Development Ordinance. Article 1. Introductory Provisions and Intensity Zones.

Section 1. 85 Shoreland 3 (S3) Standards

Section 1.8504 Maximum Lot Coverage

Section 1. 8505 Minimum Open Area

Section 1.8508 Maximum Density of Dwelling Units

The Maximum Density of Dwelling Units is 5,000 square feet for each dwelling unit.

Section 1.8509 Minimum Lot Size for Platted Lots Existing Prior to the Enactment of this Ordinance

a. Minimum lot width or depth 40 feet

b. Minimum lot area...... 5,000 square feet

b. <u>Bay City Development Ordinance. Article 3. Supplementary Provisions. Section 3.3. Setback requirements Section 3.302. Without Planning Commission Review</u>

Setbacks from lot lines shall be:

- 20 feet in a front yard,
- 10 feet in a rear yard,
- 5 feet in a side yard.
- In the case of a yard abutting a street, with the exception of the front yard, the street yard setback shall be 15 feet and the rear yard setback, with the exception of a rear yard abutting a street, may be reduced to 5 feet.

Section 3.306 Definition of Setback

The minimum allowable horizontal distance to the adjacent property line measured from the farthest projection of a structure, including eaves, decks, chimneys, and other projections.

c. <u>Bay City Development Ordinance. Article 6. Variance.</u>

Section 6.010 Purpose

The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other conditions on the site or in the immediate vicinity. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 6.020 Conditions

Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood, and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being compiled with.

Section 6.030 Criteria for Granting Variances

Variances to requirements of this ordinance, with respect to lot area and dimensions, yard area, lot coverage, height of structure, vision clearance, decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application investigation and evidence submitted by the applicant, all four expressly written findings are made:

- a. That a strict or literal interpretation and enforcement of the specified requirements would result in practical difficulty or unnecessary hardship.
- b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.
- c. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.
- d. That the granting of the variance would support goals and policies contained with the Comprehensive Plan.

Variances in accordance with this subsection should not ordinarily be granted if the special circumstances on which the applicant relies are a result of the actions of the applicant or owner or previous owners.

Section 6.035 Variance Standards for Setback Requirements

<u>Variances to requirements for setbacks may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant and others, all three expressly written findings are made:</u>

- a. The variance will not significantly adversely affect adjacent property, existing or future views, road expansion or availability of sunlight on adjacent property.
- b. Fire regulations are met as determined by the building official.
- c. There is a valid design reason for the request, such as the obtaining of views or solar exposure, or maintenance of trees.

Findings:

The Planning Staff Finds the following:

Findings for the requested Variance

- 1. The applicant provided the following responses to the criteria listed in Section 6.030:
 - a. That a strict or literal interpretation and enforcement of the specified requirements would result in practical difficulty or unnecessary hardship.
 - According to the applicant, the required 10 ft rear yard setback poses a difficulty in constructing the new garage while maintaining an aesthetically pleasing street view and not obstructing the west bay view from the existing residence.
 - Staff confirms that in this situation, the required 10 ft rear yard setback results in a practical difficulty from the owner's plans and intent to maintain a pleasing street view and not obstructing the bay view from the residence, and the request for a 4 ft rear yard variance will alleviate this difficulty. This criterion has been met.
 - b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.

According to the applicant, the arrangement of current buildings onsite is exceptional. This proposed addition needs to be closer to the property line because od this, and to preserve the property owner's bay view.

In this case, the applicant is requesting a reduction in the rear yard setback to allow an aesthetically pleasing street view and not obstructing the west bay view from the existing residence, which is an extraordinary circumstance in this case. This criterion has been met.

c. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity.

According to the applicant, rainwater run-off management will include collection and propertt drainage away from nearby properties. The remodel will not have a negative effect on the view from adjacent properties.

In this case, the applicant is requesting a reduction in the rear yard setback to allow an aesthetically pleasing street view and not obstructing the west bay view from the existing residence, without being materially detrimental to adjacent property owners. Th location of the adjacent property owners

d. That the granting of the variance would support goals and policies contained with the Comprehensive Plan.

The setback variance of 4 feet on the back side appears to be supported by a number of Bay City's Comprehensive Plan Goals and policies as identified below.

- Bay City Comprehensive Plan Goal I is 'To maintain a high quality of life in keeping with the natural environment'.
 - Policy 1for Goal 1 states 'the Plan and City ordinances shall promote development that complements and protects the Bay City environment.'
 - Policy 8 for Goal 1 states 'the desires and needs of the townspeople of Bay City shall be considered in the application of all development policies.'
- Comprehensive Plan Procedural Policy 8 states that 'Goal Statements are intended to be broad
 and directive, suggesting purpose and intent of the City. Policies are more specific, but still must
 be considered directive subject to interpretation of the Planning Commission and City Council.
 The standards contained in the Development Ordinance are to be applied, unless the Planning
 Commission or City Council grants a variance from them.'
- 2. Responses to the criteria listed in Section 6.035 are as follows:
 - a. The variance will not significantly adversely affect adjacent property, existing or future views, road expansion or availability of sunlight on adjacent property.

A 4-foot setback from the required 10 ft setback will not affect adjacent properties since it is on the rear yard (back side). The attached pictures identify the views from this area of the subject property.

- b. Fire regulations are met as determined by the building official.
 - Not applicable. Fire regulations are not an issue to the proposed setback variance since it does not interfere with emergency vehicle mobility.
- c. There is a valid design reason for the request, such as the obtaining of views or solar exposure, or maintenance of trees.

The reason for the requested setback variance is to allow for maintenance of the property view and Bay view from the subject property and single-family dwelling.

- 3. Notice was sent to adjacent property owners on March 30, 2023. Published online on April 3, 2023.
- 4. Comments were received on April 7, 2023, from Richard Darr, 4600 Salmon Street, Bay City. He doesn't think that the applicant should be allowed to have the setback variance. He states that the applicant has got all that

property in front of where she wants to build, and she can. Mr Darr states that the 10-foot setback should be adhered to, and that the applicant doesn't need to build that 6 feet from the property line. The applicant has got plenty of room to build it 10 feet from the property line as the variance of states.

Comments were received on April 7, 2023, from George Park, 4600 Salmon Street. He is the soon-to-be owner of 4600 Salmon Street, which is the property directly behind the applicant's (Mrs Olsen's) property. He is writing this letter in objection to the setback variance request. He states that Mrs. Olsen's setback would be 6 feet away from the fence which would not only impede the view from his property, but also cast a huge shadow. He states that the new building would also be 6 ½ feet from a 30+ foot tall cherry tree which in high winds, like we have in Bay City, and especially around this neighborhood, could fall if given the right storm and cause extensive damage to both the fence and the new attachment. I think that the city should politely decline the Setback Variance request and keep the 10 feet required rear yard setback as it is a major safety concern. He states that with the size of her property being so large and the setback being 10 ft she should have no problem just building onto the existing property at the required 10 ft rear yard setback. He continues that this would be unnecessarily burdensome of a thing to do and he states he would not do or ask the same.

Conclusion:

The findings of Planning Staff support the conclusion that the requested variance V-2023-01 meets the criteria of the Bay City Development Ordinance Section 6.030 (a-d) and Section 6.035 (a-c), and the proposed development of a single-family development, may be approved with the following conditions:

- 1. Submittal by the applicant and approval by the City of a City Zoning Permit, Grading and Erosion Plan and Permit, and any other permits required for construction of the addition.
- 2. Submittal by the applicant and approval by the Tillamook County Community Development Department of a required Building permit for the addition, with a copy of the County approval submitted to the City.

In making a decision, Planning Commission may:

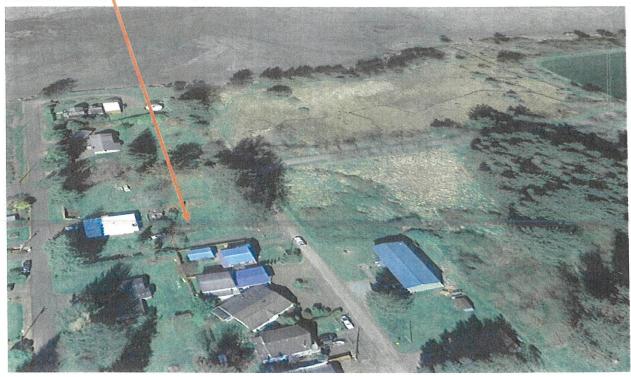
- 1. Grant the setback variance request.
- 2. Grant the setback variance request, with conditions.
- 3. Deny the setback variance request.

Subject Property



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Subject Property Aerial Looking west



Subject Property Aerial Looking northwest



View from subject property (looking north)



View from subject property (looking west)



David Mattison

From: George Park <GeorgePark@mail.tillamookbaycc.edu>

Sent: Friday, April 7, 2023 3:42 PM

To: David Mattison

Subject: Setback Variance request objection

Caution: External (georgepark@mail.tillamookbaycc.edu)

First-Time Sender Details

Report This Email FAQ GoDaddy Advanced Email Security, Powered by INKY

Hello, I am George Park. I am the tenant and soon to be owner of 4600 Salmon st in Bay city, Oregon, which is the property directly behind Mrs Olsens property. I am writing this letter in objection to the setback variance request from Christina Olsen. Mrs. Olsen's would be 6 feet away from the fence which would not only impede the view of our property, cast a huge shadow and the new building would also be 6.5 ft from a 30+ foot tall cherry tree which in high winds like we have in Bay City and especially around this neighborhood could fall if given the right storm and cause extensive damage to both the fence and the new attachment. I think that the city should politely decline the Setback Variance request and keep the 10 feet required rear yard setback as it is a major safety concern. With the size of her property being so large and the setback being 10 ft she should have no problem just building onto the existing property at the required 10 ft rear yard setback. This would be unnecessarily burdensom of a thing to do and I would not do or ask the same.

Sincerely, George Park



Review of Modifications to the Implementation of the National Flood Insurance Program in Oregon.

CURRENT BAY CITY GOVERNMENT ROLE IN THE NATIONAL FLOOD INSURANCE PROGRAM

- Establish regulatory standards (Flood Damage Protection Ordinance #684)
- Adopt/enforce local floodplain management ordinances
- Issue or deny development/building permits (with assistance of Tillamook County)
- Development oversight
- <u>Currently Floodplain development only requires compliance with flood codes</u>
 (elevated dwellings and break-away walls in VE zone, elevated finished floors and venting in AE zone)

HISTORY OF NFIP AND THE ESA

Implementing a Salmon Friendly Program for FEMA Region 10

The NFIP is administered by FEMA. Congress created the NFIP in 1968, with the purpose of the NFIP is to minimize the long-term risks to persons and property from the effects of flooding, and reduce the costs of flood damages to taxpayers, and reduce future flood damage by requiring minimum floodplain management standards, and protection for property owners against potential flood losses through insurance. The NFIP maps flood hazards, disseminating floodrisk information, and setting minimum floodplain management standards.

The Endangered Species Act (ESA) is implemented by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS).

- <u>In 2003</u> <u>National Wildlife Federation (NWF) Sued FEMA for failure to comply with ESA.</u>
- <u>In 2004 Court Ruled that FEMA must consult with NMFS (this where it started</u>).
- <u>In 2006</u> FEMA provided a Biological Evaluation that stated NFIP may affect the ESA *but not adversely*, but it wasn't good enough.
- <u>In 2008</u> NMFS issued the Biological Opinion and a Reasonable and Prudent Alternative which required communities to consider impacts on fish habitat when issuing floodplain development permits, and Mitigation to adversely affected habitat.
- <u>In 2016</u> NMFS released the Biological Opinion (BiOp) on the NFIP's effects on threatened or endangered species in Oregon's watersheds (Action Area) for the State of Oregon, two tribal nations, and 260 communities across 36 counties).
 - After consultation with NMFS, FEMA feels that land use and flood control practices that protect salmon and their critical habitat also means implementing good floodplain management that will ultimately reduce damages to floods.
- <u>In 2016</u> Congressman Peter Defazio had a 'pause' on implementation approved.
- In 2019-2021(During COVID) FEMA—with DLCD and other stakeholders—developed the 2021 Oregon Implementation Plan for NFIP-ESA Integration.
- <u>In 2022-2024</u> the NEPA Review Process began and continues with meetings open to the public. <u>In 2025+</u> - Community Implementation of the new standards is required.

OUTCOME of BiOp

New requirements for development in the floodplain and near wetlands Communities will need to evaluate in these areas for:

- direct impacts - indirect impacts - cumulative impacts

"No Net Loss" requirements means mitigate on-site, within the same reach, or in the same watershed with different mitigation ratios.

The New Plan outlines the new actions FEMA plans to take to ensure Oregon is in compliance with the ESA and BiOp.

FEAM has stated the New Plan <u>requires four paths communities can take to meet the "no</u> net loss" standard:

- A Adopt a model ordinance that contains the required elements from the BiOp.
- B Complete and submit to FEMA an ordinance checklist to demonstrate that new and/or existing local policies address the required elements.
- C Complete and implement an approved community compliance plan, developed by the local community and approved prior to implementation by FEMA (in coordination with NMFS) as meeting the "no net loss" goal at the community level (e.g., ESA 4(d) limit).
- D Complete and implement a community-level habitat conservation plan, as outlined in Section 10 of the ESA.

Some definitions

- FEMA Flood Zone AE Areas that have a 1% probability of flooding every year where predicted flood water elevation (base flood elevation) above mean sea level have been established/determined.
- FEMA Flood Zone VE Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves and tidal surges, where the base flood elevations are established. It is a special flood hazard area that has a 26% chance of flooding over the life of a 30-year mortgage.
- Floodplain Areas susceptible to being inundated by water from any source during a 100 year flood event.
- Riparian Areas Areas adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to terrestrial ecosystem.
- Wetlands Areas where water covers the soil, or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season.

IMPACTS OF NEW REQUIREMENTS TO BAY CITY

In 2025, the new FEMA restrictions will require the following:

- Will require avoidance, minimization, and/or mitigation of impacts to natural floodplain functions, with mitigation provided at specific ratios so that development actions in the floodplain result in "no net loss" to consider impacts on fish habitat & key habitat functions:
 - Flood storage no net loss to flood storage area and impacts on fish habitat
 - Water quality no net loss to water quality and impacts on fish habitat
 - Riparian vegetation no net loss to riparian vegetation and impacts on fish habitat
- Will require limiting development with a 170-foot riparian buffer zone from streams, ponds, lakes, wetlands and generally areas of frequent flooding and fish habitat impacts.

The map below shows the location of water bodies and wetlands (in yellow) in Bay City.



Will Restricts subdivision of land in floodplain.

The map below shows the location of the floodplain (in yellow) in Bay City.



- Will require limits development of land in floodplain including:
 - Limits of new impervious surface
 - Limits of fill
- Will require tracking of all permitted development and mitigation activities to FEMA
- This will limit new development, improvements and maintenance of Al Griffin Memorial Park and the City RV Park.
- This will limit new development, improvements and maintenance of Watt Family Park.
- This will limit new development, improvements and maintenance of Kilchis Point Reserve.
- This will limit new development, improvements and maintenance of Port properties (west on Hayes Oyster and the Railroad).
- This will limit new development, improvements and maintenance of any property in the flood plain or within 170 feet of a water body or wetlands.

INPUT

FEMA is still seeking input on information, studies, and analyses concerning impacts that may result from the Proposed Action or alternatives

Specifically, FEMA requests comments on:

- 1. Potential adverse or beneficial effects that the Proposed Action could have on biological resources, including species and their habitats
- 2. Potential adverse or beneficial effects that the Proposed Action could have on physical resources and floodplain functions
- 3. Potential adverse or beneficial effects that the Proposed Action could have on socioeconomics
- 4. Other possible reasonable alternatives to the Proposed Action that FEMA should consider to achieve the no net loss of floodplain function performance standard

Providing comments

Provide verbal comments at a future scoping meeting

Provide written comments via the Federal eRulemaking Portal at: https://www.regulations.gov; search for FEMA-2023-0007 and follow the instructions for submitting comments

FEMA will compile all comments received to analyze and scope the EIS analyses

A summary of the scoping comments will be included in the Draft EIS

Visit https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration

- How would the need to ensure no net loss of the three floodplain functions affect program administration?
- How might the Oregon Implementation Plan affect your community?
- Would some demographic groups be impacted more than others?
- Considering impacts on different stakeholders, what other impacts does FEMA need to consider?

Modifications to the Implementation of the National Flood Insurance Program in Oregon

Scoping Meeting | March 2023

The purpose of this meeting is to inform and solicit feedback from Oregon residents on upcoming changes to the implementation of the National Flood Insurance Program in their state.







Oregon Implementation Plan for NFIP-ESA Integration

FEMA's response and proposed implementation approach for the 2016 Biological Opinion on the National Flood Insurance Program in Oregon

DRAFT, October 2021



Purpose of today's scoping meeting

Inform th

Inform the public about the National Environmental Policy Act (NEPA) review for upcoming changes to implementation of the National Flood Insurance Program (NFIP) in Oregon

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Describe the Environmental Impact Statement (EIS) process, including the Proposed Action, Purpose and Need, and Alternatives

Receive comments on the Proposed Action and Alternatives

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Congress created the NFIP via the National Flood Insurance Act (NFIA) of 1968, following historic devastating flooding

- The NFIP reduces future flood damage by requiring minimum floodplain management standards and provides protection for property owners against potential flood losses through insurance
- The purpose of the NFIP is to minimize the long-term risks to persons and property from the effects of flooding, and reduce the escalating costs of flood damages to taxpayers
- The NFIP is administered by the Federal Emergency Management Agency (FEMA)



Today, flooding continues to be the single greatest source of damage from natural hazards in the United States

- The NFIP serves as the foundation for national efforts to reduce the loss of life and property from flood disasters, both through insurance and key "noninsurance activities" including mapping flood hazards, disseminating flood-risk information, and setting minimum floodplain management standards
- Implementation of the NFIP is estimated to save the nation roughly \$1.6 billion annually through avoided flood losses



NFIP from the National Flood Insurance Act (NFIA) of 1968

- Quid pro quo program
- FEMA makes flood insurance available if
- Communities voluntarily agree to regulate development in the floodplains using the minimum floodplain management standards
- Over 22,500 communities participate (states, Tribes, cities, towns, counties)
- FEMA does not regulate local land use; the Constitution reserves that right for the states



Federal Role

- Updated maps
- Establish development/ building standards
- Provide flood insurance coverage
- Oversee programmatic implementation of the NFIP including training, technical assistance, and enforcement

Community Role

- Establish higher regulatory standards (opt)
- Adopt/enforce local floodplain management ordinances
- Issue or deny <u>development</u>/building permits
- Development oversight



Overview of the Endangered Species Act (ESA)

Section 7(a)(1) of the ESA requires
Federal agencies to use their
authorities to carry out programs
that protect and conserve
endangered and threatened species
and their habitats

Section 7(a)(2) of the ESA requires
Federal agencies to ensure that any
action they authorize, fund, or carry
out is unlikely to jeopardize the
continued existence of any
endangered or threatened species
or result in the destruction or
adverse modification of their habitat

The ESA is implemented by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS).





Oregon ESA consultation history

Biological Opinion (BiOp)

- Document issued by the Services reviewing the proposed action
- NMFS has completed two BiOps in FEMA Region 10 regarding implementation of the NFIP (WA & OR)
- Both resulted in jeopardy determinations



Reasonable and Prudent Alternatives (RPA)

- Additional report issued with a BiOp when a jeopardy opinion is made
- Describes alternatives to implementing the proposed action that meet ESA compliance
- Each WA & OR BiOp included an RPA as guidance to FEMA on alternative methods for implementing the NFIP locally





Overview of 2016 NMFS NFIP jeopardy finding for Oregon

In 2016, NMFS released a Biological Opinion (BiOp) on the NFIP's effects on threatened or endangered species in Oregon's watersheds (Action Area) State of Oregon, two tribal nations, and 260 communities across 36 counties

development actions in the floodplain result in "no net loss" to key habitat functions The BiOp tasked FEMA to modify NFIP implementation in Oregon such that

Flood storage

Water quality

Riparian vegetation

"No Net Loss" means mitigate on-site, within the same reach, or in the same watershed with different mitigation ratios

2019-2021, FEMA—with DLCD and other stakeholders—developed the 2021 Oregon Implementation Plan for NFIP-ESA Integration



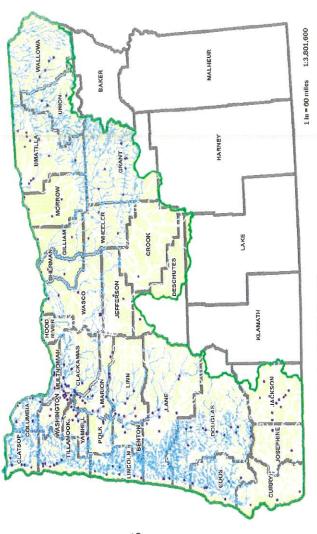


Implementation (action) area

Overlap: Six Salmon and Steelhead Recovery Domains

participating communities NFIP current or future

mapped Special Flood Mapped or future Hazard Area



OREGON NFIP BIOP ACTION AREA



NFIP PARTICIPATING COMMUNITIES ■ NFIP PARTICIPATING TRIBES COUNTIES





The Plan outlines the actions FEMA plans to take to ensure Oregon NFIP implementation is compliant with the ESA and 2016 BiOp...

FEMA's development of the Oregon Implementation Plan included stakeholder input throughout the process:

- Large stakeholder workshops
- Small discussion groups
- Briefings with state & federal agencies

Actions include changes to:

- Information provided to communities
- Mapping products
- Reporting requirements for participating communities





FEMA plans to analyze the Oregon Implementation Plan under NEPA via an EIS to evaluate its potential impacts

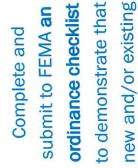


...as well as four paths communities can take to meet the "no net loss" standard



 ∞

Adopt a **model**ordinance that
contains the required
elements



local policies address the required elements



complete and implement an approved community compliance plan, developed by the local community and approved prior to implementation by FEMA (in coordination with NMFS) as meeting the "no net loss" goal at the community level (e.g.,



Complete and implement a community-level habitat conservation plan, as outlined in Section 10 of the



ESA 4(d) limit)



Oregon Implementation Plan timeline

Litigation to Planning

2009: Audubon Society et al. vs FEMA

2016: Jeopardy opinion, ESA BiOp RPA 2018: DRRA extension (3 yrs)

2019 to 2021: Implementation Planning



Moving toward Implementation

Spring 2021: Draft approach & stakeholder input

Fall 2021: Final draft Implementation Plan & feedback

2022-2024: NEPA Review Process

Est. 2025+: Community Implementation

Federal Emergency Management Agency



Overview of the National Environmental Policy Act (NEPA)

Requires Federal agencies to evaluate potential environmental impacts as part of their planning and decision-making process

actions that have the potential for significant effects on the Prepare an Environmental Impact Statement (EIS) for natural, physical, or human environment

Effects include ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative

FEMA is preparing an EIS for the Implementation Plan as impacts to communities will likely be significant



The National Environmental Policy Act of 1969, as amended

(Par. L. 9), 1905. 424. S.C. 4321. 447, January 1, 10°70, 35 amicologists, Pub. T. 94. 52, July 1, Pub. L. 94.83, August 9, 1975, and Pub. L. 97. 258. 3, 400. Sept. 17, 1982).

 Act to enable to automat policy for the encomman to provide for the enablishment on a noticemental Quality and for other purposes.

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CONGRESSIONAL DECLARATION OF NATIONAL ENVIRONMENTAL POLICY.

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Establishing 'Purpose and Need'

2016 BiOp establishes need for action:

FEMA must implement the NFIP within the Action Area so as not to jeopardize ESA listed species and their critical habitats

Purpose of the proposed action:

Implement changes to Oregon NFIP administration that align closely to NMFS BiOp recommendations, designed to avoid jeopardy

Maintaining consistency with FEMA's existing NFIP statutory and regulatory authorities and the program's objectives





Alternatives

outlining actions the agency could take in Oregon to ensure NFIP administration is To align with the BiOp's intent, FEMA developed the draft Implementation Plan consistent with the ESA

The draft Oregon Implementation Plan actions are referred to as the "Proposed Action" FEMA plans to analyze in the EIS to determine its impacts

Purpose and Need, as well as a "No Action" alternative to outline what would occur if FEMA will also consider Alternatives to the Proposed Action that could meet the no changes were made to the NFIP in Oregon

No Action alternative is insufficient to meet the Purpose and Need but must be analyzed per NEPA regulations





Alternatives

In addition to the Proposed Action and "No Action" alternatives, the EIS will consider a range of reasonable alternatives for NFIP implementation in Oregon

Each alternative analyzed will contain measures and actions (options) that allow communities to meet the no net loss standard

FEMA welcomes comments from the public and stakeholders on potential alternatives or options to consider in this process.





FEMA is seeking input on information, studies, and analyses concerning impacts that may result from the Proposed Action or alternatives

Specifically, FEMA requests comments on:

- 1. Potential adverse or beneficial effects that the Proposed Action could have on biological resources, including species and their habitats
- 2. Potential adverse or beneficial effects that the Proposed Action could have on physical resources and floodplain functions
- Potential adverse or beneficial effects that the Proposed Action could have on socioeconomics <u>ო</u>
- 4. Other possible reasonable alternatives to the Proposed Action that FEMA should consider to achieve the no net loss of floodplain function performance standard





All comments must be postmarked by May 5, 2023

Providing comments

- Provide verbal comments during today's meeting or at a future scoping meeting
- https://www.regulations.gov; search for FEMA-2023-0007 and follow the instructions for Provide written comments via the Federal eRulemaking Portal at submitting comments
- FEMA will compile all comments received to analyze and scope the EIS analyses
- A summary of the scoping comments will be included in the Draft EIS
- Visit https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration





Next steps

Notice of Intent - Mar 2023

Scoping Process - Mar-May 2023

Draft EIS - Dec 2023

Public Comment on Draft EIS

Final EIS / ROD - Dec 2024

Finalize / Publish Plan - Jan - Mar 2025

Community implementation - Sep 2025





Achieving no net loss requires mitigation for development

development actions that result in a "loss" to one or more of the BiOp's key floodplain functions must Under the draft Implementation Plan, any either be mitigated for or avoided:

ly Harmful	S
Examples of Potentially Harmful	Development Activities
	Floodplain Function



Placement of fill



Addition of impervious surface



Riparian Vegetation

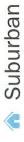
Removal of existing vegetation



FEMA conducted preliminary mitigation or avoidance to analyses of the potential three 'model' Oregon impacts of additional Communities:



III Urban







Sample model community analysis - rural community

COMMUNITY CHARACTERISTICS

Population: ~1,000

Area: 1000 acres
Average Income: \$49,000

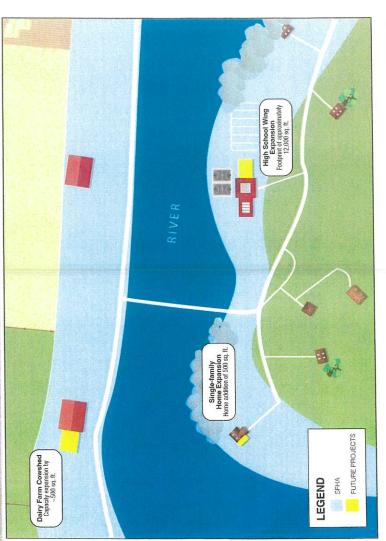
Approximately 80% of the Developable SFHA not yet Developed

Moderate overlap between SFHA and established Urban Growth Areas

...consider development activities for:*

- Dairy farm cowshed expansion
 - Single family home expansion High school wing expansion
- Pave gravel trail
- Expand school parking lot





resurfacing; lawn care, gardening, removal of hazard trees & noxious weeds * Not Included: Normal ag & forestry practices; maintenance, repair, road



Sample model community analysis - urban community

COMMUNITY CHARACTERISTICS

Population: >90.000



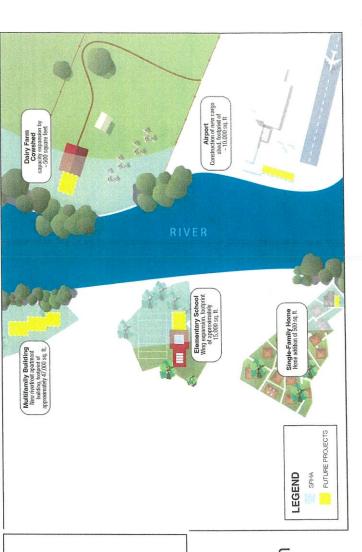


Approximately 30% of the Developable SFHA not yet Developed

Minimal overlap between SFHA and established Urban Growth Areas

...consider development activities for:*

- Dairy farm cowshed expansion
- Multi-family building expansion
- Elementary school wing expansion Single family home expansion
- Airport cargo shed construction





resurfacing; lawn care, gardening, removal of hazard trees & noxious weeds * Not Included: Normal ag & forestry practices; maintenance, repair, road



Food for thought when considering what input to provide:

How would the need to ensure no net loss of the three floodplain functions affect program administration?

How might the Oregon Implementation Plan affect your community?

Would some demographic groups be impacted more than others?

Considering impacts on different stakeholders, what other impacts does FEMA need to consider?

Examples of Potentially Harmful Development Activities	Placement of fill	Addition of impervious surface	Removal of existing vegetation
Floodplain Function	Flood Storage	Water Quality	Riparian Vegetation







ESA and the NFIP

ESA and the National Flood Insurance Program

Implementing a salmon friendly program.



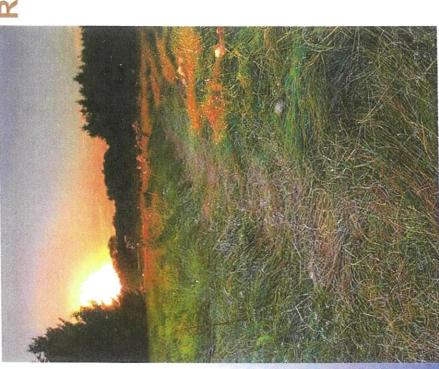
NFIP ESA History

Background

- 2003 NWF Sued FEMA for failure to comply with ESA
- ➤ 2004 Court Ruled that FEMA must consult with NMFS
- 2006 FEMA provided a Biological Evaluation that stated NFIP may affect but not adversely
- September 2008 -NMFS issued Biological Opinion with Jeopardy/ Adverse Modification

NMFS offered one Reasonable and Prudent Alternative





Reasonable and Prudent Alternative

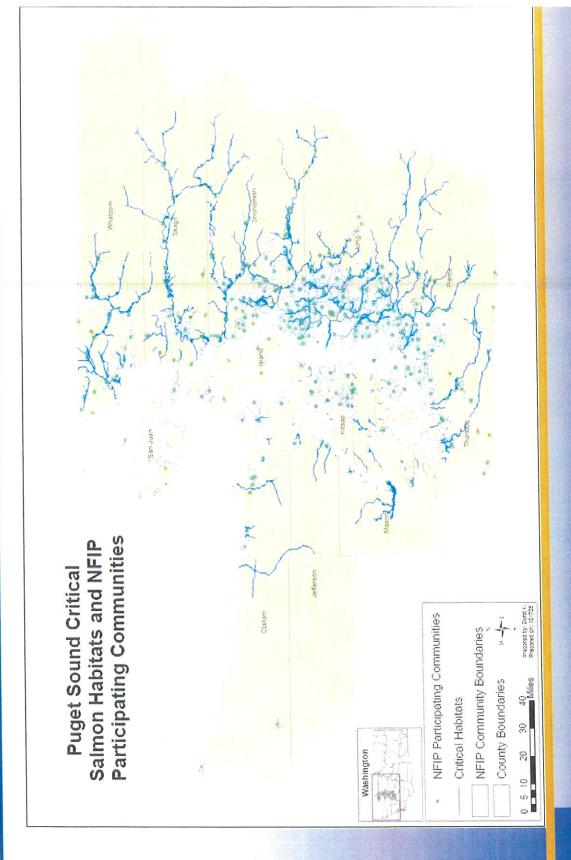
- A Reasonable and Prudent
 Alternative is an action(s) that a
 federal agency can take to avoid the
 likelihood of jeopardy. It must
 identify alternative actions that:
- Can be implemented in a manner consistent with the intended purpose of the NFIP.
- 2) Can be implemented consistent within the scope of the Federal agency's legal authority and jurisdiction,
- 3) Are economically and technologically feasible.



Summary of Elements

- Notify Puget Sound communities of determination
- Change mapping procedures to reduce impacts
- Require communities to consider impacts on fish habitat when issuing floodplain development permits
- 4. Changes to CRS program
- Addressing levee vegetation maintenance effects 5
- Mitigation to adversely affected habitat 6
- Report to NMFS on progress towards meeting requirements







Development Permit Floodplain

Has been issued to Mickey Mouse or construction of a House 10. 154C

11 1234 Mockingbird Lane, Marysville, WA

of 4 Block B Subdivision River Run

Flood County, USA

Devold Duck Issuing Officer

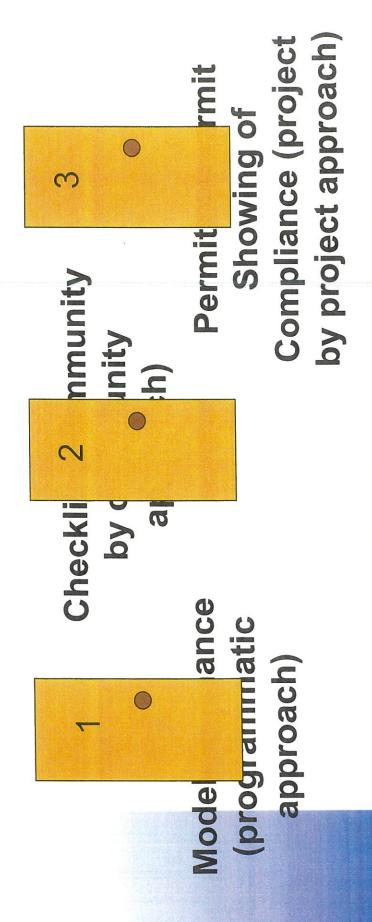
property at the time of commencement of work, This notice shall be posted in a conspictions location at the front of the above described

44 CFR 60.3 (a) (2) A community shall:

- Assure all necessary permits have approval is required by Fed/State been received from State and Federal agencies from which
- Requires a showing of compliance, particularly with CWA 404 permits, but includes ESA Section 10 permits.



Three Doors Approach







Floodplain Management and the Endangered Species Act

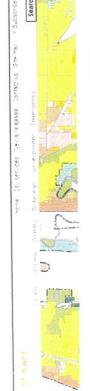
A Model Ordinance

010

FEMA Region 10

- Model Ordinance (programmatic approach)
- Combines Floodplain requirements (Structural based) with Habitat requirements (species based)
- Written ESA inclusive, not salmon specific
- More than minimally necessary (avoid adverse effect vs. eliminate Jeopardy/Adverse Mod.)
- Not required, but highly encouraged



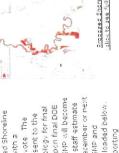


onie Slanning

Shoreline Master Program Update

78 3:495 LTUTAL

on september 15, 2009, the City of kent adopted its updated Shoreline whater program (SIPP) with a undated SIPP with a updated SIPP has been sent to the state Department of Ecology for final regions and approval Upon final Decome approval, the updated SIPP will become effective. DOE and City staff estimate an effective date this December or next January. The adopted SIPP and ordinance may be downloaded below. In addition to other supporting



What is a Shoreline Master Program?

What are the shorelines in Kent?

How will the new SMP affect me?

How can the public be involved in the update?

Download the Citizens' Advisory Committee Meeting Minutes

Download the Scientific Studjes

Download the Updated Shoreline Master Program

Additional information will be posted on this website as it is developed by planning Services Staff. For more information about the Shoreline Master Program update, please contact. Erin George at (253) 856-5436 or gasorge_bulkent.walls.

Community Checklist (Semi - programmatic)

- Utilizes existing local/state regulations adopted at the local level thus providing flexibility
- Meets the minimum requirements of the Biological Opinion (may be salmon centric)
- Not required, but highly encouraged



Floodplain Development Permit

No. 1546
Has been issued to Mickey Mouse.

11 1234 Mockingbird Lene, Marysville, WA

Flood County, USA

Denald Duck Issuing Officer This notice shall be posted in a conspicuous location at the front of the above described property at the time of commencement of work.

- Permit by Permit demonstration of compliance (individual approach)
- Requires demonstration of compliance on project level basis
- **Utilize Sections:**
- Section 7 consultation (fed nexus)
- Section 10 Permit (HCP)
- Section 4d approval (NMFS only)
- Required, but not recommended





- projects will require some level of Regardless of approach, all assessment:
- Biological Assessment/ Biological Evaluation
- Habitat Conservation Plan

0

Habitat Assessment Report

Regional Guidance



Floodplain Habitat Assessment and Mitigation

Regional Guidance

2010

FEMA Region 10

Floodplain Habitat Assessment Regional Guidance for and Mitigation

- 5-step habitat assessment process
- 4-step mitigation guidance

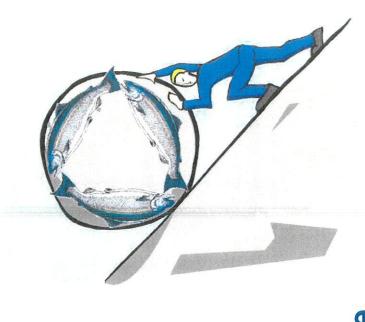
Must evaluate for:

- direct impacts
- indirect impacts
- cumulative impacts



Challenges

- There are a number of challenges that exist to implementing the Bi-Op
- Fish Vs. Flood
- Limitations to what
 NFIP can do (no land use authority)
- FEMA must be successful through the actions of others





► FEMA continues to pursue opportunities state agencies, local governments and to partner with other federal agencies, other stakeholders to protect species and critical habitat

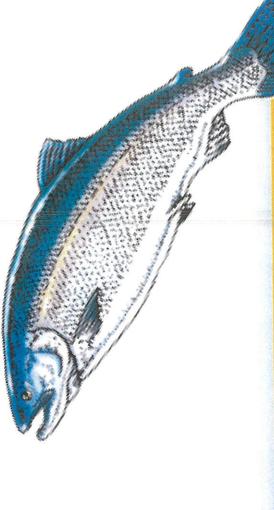








FEMA feels that land use and flood control critical habitat also means implementing practices that protect salmon and their good floodplain management that will ultimately reduce damages to flood







Monthly Report For March 2023



City of Bay City

PO Box 3309 Bay City, OR 97107 Phone (503) 377-2288 Fax (503) 377-4044 TDD 7-1-1 www.ci.bay-city.or.us

BAY CITY PLANNING DEPARTMENT MONTHLY REPORT FOR MARCH 2023

1. Zoning Permits

- a. Addition
 - 6975 Seattle Avenue Residential addition;
- b. <u>6 Duplexes at Seagulls Rest</u>
 - 9455 and 9465 4th Street Duplex construction;
 - 5615 and 5625 A Street Duplex construction;
 - 5635 and 5645 A Street Duplex construction;
 - 5655 and 5665 A Street Duplex construction;
 - 5675 and 5685 A Street Duplex construction;
 - 9450 and 9460 5th Street Duplex construction;
- c. Single-Family Dwelling
 - 6085 D Street Single-Family Residence construction;
- d. Single-Family Dwelling
 - 5475 Pacific Street Single-Family Residence construction.

2. Planning Commission Meeting March 15th Hearing

- Temporary Use Permit for continued placement of Camp Host at Kilchis Point Reserve (approved unanimously);
- Setback Variance request for property at the southwest corner of 9th and E Street (approved unanimously).

3. Specific Tax Lot Questions/Inquiries/and Other Correspondences (counter, phone or email)

- Development Requirements for property on 7th south of Portland Avenue (7);
- Development Requirements and variance Requirements for property at 4635 Spruce Street (6);
- Permit and Application submittals for property at 4th and A Street (6);
- Development Requirements, Process and Meeting time for permits for Manna's Kitchen reuse at 5535 C Street (5);
- Development Requirements for properties at Clam and Hare Street(4);
- Wayfinding Sign Amendments (3);

- Site Map and Permit Review for property at 5475 Pacific Street (3);
- Plan Submittal/ Permit Review for property at 5415 Pacific Street (3);
- Development requirements and Preapp meeting for property at NE corner 5th and E Street (3);
- Development requirements Permit Submittal and pick-up for property at 6975 Seattle Avenue (3);
- Development Requirements and Preapp meeting for property at 11th and Main Street (2);
- Permit Submittal Review and Pick-up for property at 6085 D Street (2);

- Neighbor concerns and findings review of V-2023-01 for property at 8th and 9th and E Street (2);
- Permit Process/Review Issues of Lots
 7 and 8 at Spruce and Elliot Street;
- RV at 6th and B Street;
- Property File Review for 8825 9th Street;
- Permit Review and Pick-up for property at 10220 7th Street;
- TGM Code Update Issues;
- Setback requirements for property at 9925 8th Place;
- Development Requirement for property at 8th and D Street;
- Review of HB 3442;
- Question about T-2023-01 for property at 5000 Spruce Street;
- Clearing brush on property at NE corner of 7th and Portland Avenue;
- Development Requirements in NHI for property at 6th and C Street;
- Tree and Brush Removal and Development on Fern Street;
- Development Requirements for properties at Clam and Elliot Street;
- Permits Review for property at property at 8975 8th Street;
- Permit Question for property at 7825
 14th Street;
- Development Requirements in NHI for property at 9330 4th Street;
- Tree Removal Request questions:
- Sewer line extension questions;

- OLCC Permit renewal for the Landing;
- Fence and Garage requirements in NHI for property at 5570 B Street;
- Reuse of Buildings at 8140 Bewley Street;
- Adjacent Property owners for property at 9340 9th Street;
- Activity on High Street ROW between 6th and 7th Street;
- Development Requirements Tiny Homes for property on McCoy Avenue;
- Development Requirements for property at 15th and Sunnyside Street;
- Vacant property in City for 6735 Tillamook Avenue;
- ADU placement for property at 10180 4th Street;
- Farmer's Market for 5620 B Street;
- Driveway extension for 6150 Seattle Avenue;
- Permit questions for 8250 Hwy 101;
- Multiple Family Residential
 Development Submittal for property at Hobsonville Point Road and Pennsylvania Street;
- City Limits and Vacation Rental for 12880 Hobsonville Point Road.
- Tree and Brush Removal for property at 6th and High Street;

4. Land Use Applications (1)

 Setback Variance request for property at 4635 Spruce Street (Planning Commission Hearing scheduled for April 19th).

5. Meetings involving Planning Department

- March 2nd Salmonberry Trail Meeting (Rockaway Beach City Hall);
- March 3rd Weekly LOC Legislative Update Meetings via Zoom;
- March 10th Weekly LOC Legislative Update Meetings via Zoom;
- March 13th North Coast Housing Development Forum (Seaside);
- March 13th Imhoff Development at Baseline Meeting;
- March 13th State of the City Planning Meeting;
- March 14th Wayfinding Sign Location Meeting via Zoom;
- March 15th Pre-Application Meeting for development at NE corner of 5th & E Street;
- March 15th Planning Commission Meeting;
- March 16th Staff Safety Meeting;
- March 16th Library Fundraiser Meeting;
- March 17th Weekly LOC Legislative Update Meetings via Zoom;
- March 21st Meeting regarding remodel at Manna's 5535 Hayes Oyster Drive;

- March 22nd Meeting regarding Development Improvements at 11th and Main;
- March 28th City-Tillamook County Monthly Meeting;
- March 28th FEMA ESA Biop and Future Requirements Meeting;
- March 29th Coordinated Homeless Pilot Quarterly Meeting;
- March 31st Weekly LOC Legislative Update Meetings via Zoom.

6. Counterwork

- 12 Permitting, Land Use and public facility questions at counter;
- 4 Zoning Permit submittals at counter.

7. Upcoming April Meetings

- State of the City Prep Meeting April 3rd;
- Vendors' Meeting for Farmer's Market (The Landing Restaurant) April 4th;
- Tillamook Public Meeting for the National Flood Insurance Program (NFIP) Endangered Species Act (ESA) Integration in Oregon (Port of Tillamook Bay) April 5th, April 18th;
- ➤ Weekly LOC Legislative Update Meetings via Zoom April 7th, 14th, 21st, 28th;
- > State of the City Event (Bay City Ad Montgomery Hall) April 8th;
- City-Tillamook County Monthly Meeting April 19th;
- Planning Commission Meeting April 19th;
- City Safety Meeting April 20th;
- > Spring North Coastal Planners Network Meeting ODF, 5005 3rd Tillamook April 27th.