Enclosed is a memorandum from Yost Grube Hall Architecture, on behalf of Oregon State University, requesting a change to the height limitation exception for vertical evacuation standards that the City adopted in 2016 (Ordinance No. 2105). At issue is the standard listed under NMC 14.10.020(D)(1), which requires that assembly areas for vertical evacuation structures accommodate the maximum occupancy load of the building. This provision was added in response to comments received from the Department of Land Conservation and Development.

The new Marine Studies Initiative (MSI) building at the Hatfield Marine Science Center will include a vertical evacuation assembly area. This project was the catalyst for the code amendments. As Oregon State University has refined its design they have come to find that this standard will require the assembly area accommodate 1,389 people, which they point out is far more than would realistically occupy the building.

As an alternative, they are recommending that the language be amended to require vertical evacuation structures be sized to accommodate the occupant load of the assembly spaces in the building plus half of the occupant load of the remainder of the building. In the context of their project, this would mean that the vertical evacuation assembly area would be required to accommodate 900 occupants. They believe this is a more realistic figure.

I have discussed the change with staff at the Department of Land Conservation and Development and our Fire Chief, Rob Murphy. Both are on board with the revision. If the Planning Commission is comfortable with the change then it could make a motion, in work session, to initiate the amendment.

Attachments

Letter from Yost, Grube, and Hall Architecture dated 7/28/17
Ordinance No. 2105
Excerpt from PC Staff Memo for 11/14/16 Meeting (where occupant load standard was added)
Minutes from 11/14/16 PC Meeting
Letter from DLCD, dated 10/26/16
Memorandum

To: Derek Tokos, City of Newport
From: Tom Robbins
CC: Lori Fulton (OSU), Crystal Sanderson (YGH)
Subject: 106600 OSU Marine Studies Initiative Building Vertical Evacuation Capacity
Date: July 28, 2017

1. **Statement of Purpose**

Oregon State University’s (OSU) Marine Studies Initiative (MSI) Building site is in the Water Related (W-2) Zoning District and is subject to a 35’-0’’ height limitation per the Newport Municipal Code section 14.13.020 Table A. Newport Municipal Code section 14.10.020 General Exceptions to Building Height Limitations, paragraph D allows an exception to the zoning height limitations if the structure is designed for vertical evacuation. Paragraph D.1 of this section states *Evacuation assembly areas shall provide at least 10 square feet of space per occupant. Assembly areas that are incorporated into a building shall be sized to accommodate the maximum occupant load of the building.* OSU is requesting that the city of Newport revise this paragraph to the following: *“Vertical evacuation assembly areas that are incorporated into the building shall be sized to accommodate the occupant load of the assembly spaces in the building plus half of the occupant load of the remainder of the building.”* to account for a more accurate number of people who would be occupying buildings.
2. **Background for Revision Request**

The MSI Building for OSU is a new three-story academic research and teaching facility. The building is a type IIB noncombustible structure and includes B and A-3 occupancies. The program includes an instructional lab, two general education classrooms, an Innovation Lab (maker space), a small café and a 250-person auditorium on the first floor. There are research labs, offices and student/faculty interaction areas on the second and third floors.

The building will be located in a tsunami inundation zone and will include a vertical evacuation assembly area on the roof. (Safe Haven Hill has been identified as the primary evacuation location for Hatfield Marine Science Center (HMSC). Safe Haven Hill is a 13 to 15-minute walk from HMSC and provides evacuation space for 2,300 people. OSU has mandated the MSI project provide a secondary vertical evacuation assembly area for a minimum of 200 mobility impaired individuals. The building will include an evacuation elevator for this purpose.) The vertical evacuation will be designed to withstand a 9.0 earthquake and an XXL tsunami. The vertical evacuation assembly area must be a minimum of 40.9 feet above existing grade and is currently designed at 47' -0" above existing grade. The area allocated per person is 10 square feet per person. Due to the occupancy requirement for a vertical evacuation assembly area in an XXL tsunami, OSU is pursuing a request for a revision to the Newport Municipal Code.

3. **Justification for Revision Request**

The goal of the MSI program and other HMSC programs is to have a maximum of 350 students (graduate and undergraduate) and 360 total full-time and part-time staff on the entire campus. This amounts to 710 total individuals. The Oregon Structural Specialty Code (OSSC) table 1004.1.2 occupant load factors result in 1,389 occupants in the new building alone. Per OSSC section 1004.1 Design Occupant Load, *In determining means of egress requirements, the number of*
occupants for whom means of egress facilities shall be provided shall be determined in accordance with this section (table 1004.1.2). This code is not intended to regulate the cumulative number of occupants in a building and does not set limitations for total occupants. The intent of this code section is to size egress components.

The code occupant load factors in OSSC Table 1004.1.2 quantify the maximum number of people in individual rooms and spaces based on square foot calculations. OSSC section 1004.1 is conservative because it regulates egress and the greatest hazard to occupants occurs when an unusually large crowd is present (2012 International Code Commentary). Thus these calculations result in a larger number of occupants than would ever occur in a space. The calculations are generic in the function of the space. Each and every space is calculated at full occupancy and because the section is not intended to regulate overall building occupancy, these spaces compounded, result in an unrealistic building occupancy. To be consistent with the intent of the accommodating the maximum number of people in the building and more in keeping with the actual number of people in the building OSU suggests the following:

Calculate the occupant load from the assembly spaces and add half of the occupant load of all other spaces.

This number is more representative of the actual number of occupants anticipated. Related to the MSI building, this number would be 410 for the assembly spaces and 490 for all other spaces, for a total of 900 occupants. Nine hundred occupants exceeds the total number of OSU students and employees using the building (and the entire campus) and provides excess capacity for additional staff and visitors to campus. This meets the intent of the existing language but does not result in an excessive burden to a developer.
In summary, the design of the MSI building will provide a secondary vertical evacuation assembly area for mobility impaired individuals and is sized to accommodate more occupants than the quantity to be added due to the MSI program. OSU is requesting that the second sentence of section 14.10.020 of the Newport Municipal Code paragraph D.1 be modified to the following:

*Vertical evacuation assembly areas that are incorporated into the building shall be sized to accommodate the occupant load of the assembly spaces in the building plus half of the occupant load of the remainder of the building.*

Thank you for this opportunity to work with us on this important project. Please contact Tom Robbins at YGH Architecture with any questions or comments.
CITY OF NEWPORT
ORDINANCE NO. 2105
AN ORDINANCE AMENDING CHAPTER 14.10 OF THE NEWPORT MUNICIPAL CODE (ORDINANCE NO. 1308, AS AMENDED) REGARDING VERTICAL EVACUATION STRUCTURES

Findings:

1. Oregon State University announced on July 6, 2016 that it selected the Hatfield Marine Science Center (HMSC) Campus as the location for its new Marine Studies Initiative Building; and

2. HMSC is located within a tsunami inundation area, as depicted on maps published by the Oregon Department of Geology and Mineral Industries (DOGAMI) in 2013; and

3. The announcement by Oregon State University acknowledged the challenges of building in a tsunami inundation area and noted the University's intent to construct a seismically safe structure with vertical evacuation features to improve the life-safety resources available to its staff, students and visitors; and

4. Any structure designed for vertical evacuation will need to exceed the 35-foot maximum building height of the W-2/"Water Related" zone district within which the HMSC Campus is located; and

5. While the City of Newport has a process in place for an applicant to seek a variance to building height limitations, the City Council felt that this issue might be best addressed legislatively given that the existing height limits were put in place before (a) the modern understanding of the potential impact that tsunamis could have on our community came to light and (b) vertical evacuation was developed as a tool for responding to tsunami risks; and

6. On August 15, 2016 the City Council referred the matter to the Newport Planning Commission to evaluate how the Municipal Code could be amended to allow vertical evacuation technologies to be employed within the community; and

7. The Newport Planning Commission and Planning Commission Citizens Advisory Committee held work sessions on August 22, 2016 and September 26, 2016 to develop a package of code amendments; and

8. At the conclusion of its second work session, the Planning Commission initiated a public hearings process to add non-discretionary standards to Chapter 14.10 of the Municipal Code that allow vertical evacuation structures to exceed building height limitations on lands south of the Yaquina Bay Bridge that are within a tsunami inundation area; and
9. The Commission's reasoning in making this geographic distinction is that the City's exposure to tsunami's is most acute in South Beach where there are large stretches of relatively flat terrain. This is in contrast to areas north of the Bridge where land that is likely to be impacted by a tsunami is close to high ground; and

10. Non-discretionary standards proposed with these amendments are intended to ensure that vertical evacuation structures are (a) designed and constructed such that they will adequately serve their stated purpose, (b) sized such that they provide relief for a worst case event with capacity to accommodate a building and/or areas maximum occupant load, and (c) are adequate signed so that the public understands how to access the facility in the event of an emergency; and

11. The Planning Commission held a duly noticed public hearing to consider testimony on the proposed amendments on November 14, 2016, at which the entire Community Development Department file on the proposal was physically available for inspection (Newport File No. 2-Z-16); and

12. The Community Development Department presented its staff report at the hearing, which included a description of the proposed revisions and relevant approval standards; and

13. Written comments were received and entered into the record from the Oregon Department of Land Conservation and Development (DLCD) and the Director of the Hatfield Marine Science Center, and the concerns raised in those letters were specifically addressed in the draft set of the amendments presented at the hearing; and

14. Verbal testimony was provided by the Newport Fire Chief, who confirmed that from an emergency services perspective, his office is comfortable with the building height exception as presented; and

15. The hearing was closed after the Fire Chief provided his testimony and, after deliberation, a motion was made, and seconded, recommending adoption of the proposed amendments. The Planning Commission voted to approve the motion; and

16. The City published notice of the City Council hearing relating to the amendments on November 26, 2016. The published notice ran in the in the Newport News-Times and listed the date, time, and place of the December 5, 2016 City Council hearing, satisfying the City's pre-hearing obligations for notice to the public; and

17. On December 5, 2016 the Council opened a public hearing on the amendments, at which the entire Community Development Department file on the proposal was physically available for inspection; and
18. City Manager, Spencer Nebel, presented a staff report, after which the Council accepted public testimony, and then closed the public hearing and discussed the amendments; and

19. Based upon the Planning Commission recommendation, the evidence before the Council (which included the evidence before the Planning Commission), and oral and written testimony presented to the Council, a motion was made, and seconded, to adopt the ordinance as presented. The Council voted to approve the motion.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

**Section 1.** The above findings are hereby adopted as support for the amendments, below.

**Section 2.** Chapter 14.10 of the Newport Municipal Code (Ordinance No. 1308 (as amended)), Height Limitations, is amended as shown in Exhibit "A."

**Section 3.** This ordinance shall take effect 30 days after its adoption.

Date adopted and read by title only: December 5, 2017

Signed by the Mayor on December 6, 2016.

Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

Approved as to form:

Steve Rich, City Attorney
CHAPTER 14.10 HEIGHT LIMITATIONS
(Note: Language shown with an underline is added. Text in strikethrough is deleted.)

14.10.010 Height Limitations

A building, structure, or portion thereof hereafter erected shall not exceed the height listed in Table A for the zone indicated except as provided for in Sections 14.10.020, General Exceptions to Building Height Limitations and 14.10.030, Special Exceptions to Building Height Limitations.

14.10.020 General Exceptions to Building Height Limitations

A. The following types of structures or structural parts are not subject to the building height limitations of this Code as long as the square footage of said structure or structural part is no greater than 5% of the main building footprint as shown on the site plan, or 200 square feet, whichever is less: chimneys, cupolas, church spires, belfries, domes, transmission towers, smokestacks, flag poles, radio and television towers, elevator shafts, conveyors and mechanical equipment.

B. No structure or structural part excepted under Subsection (A) from the building height limitations of this Code, whether freestanding or attached to another structure or structural part, may exceed the maximum allowable height by more than 25% unless approved by the Planning Commission per section 14.10.030.

C. Standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts, where allowed by this Ordinance, are limited in height to 50 feet in R-1, R-2, R-3, R-4, W-1, W-2, W-3 and C-2 zones; 100 feet in the P-1, C-1 and C-3 zones; 150 feet in the I-1, I-2 and I-3 zones. A taller structure or structural part referenced under this subsection may be allowed upon the issuance of a conditional use permit per Section 14.33 of this Code.

D. A stand-alone structure or portion of a building designed for vertical evacuation from a tsunami where the property upon which the structure or building is located is situated south of the Yaquina Bay Bridge within the "XXL" tsunami inundation area boundary, as depicted on the maps titled "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport North, Oregon" and "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport South, Oregon" produced by the Oregon Department of Geology and Mineral Industries (DOGAMI), dated February 8, 2013 (i.e. the tsunami inundation maps), provided:

1. Evacuation assembly areas shall provide at least 10 square feet of space per occupant. Assembly areas that are incorporated into a building shall be sized to accommodate the maximum occupant load of that building.
For stand-alone structures, the assembly area shall be sized to accommodate the occupant load of nearby buildings and/or assembly area(s) to which it is associated; and

2. Ingress/egress to the evacuation assembly area shall be signed in a manner consistent with state and/or federal guidelines for the identification of such facilities; and

3. Plans and specifications, stamped by an architect or engineer licensed in the State of Oregon, establish that the structure is of sufficient height and has been designed to withstand an earthquake and wave forces attributable to an "XXL" tsunami event as depicted on the tsunami inundation maps; and

4. An architect or engineer licensed in the State of Oregon is retained by the applicant or land owner to perform structural observations during the course of construction. Prior to issuance of a building permit, the observer shall submit a written statement identifying the frequency and extent of the structural observations to be perform. At the conclusion of the work and prior to issuance of a certificate of occupancy, the structural observer shall submit a statement that the site visits were performed and that any deficiencies identified as a result of those observations were addressed to their satisfaction.

Except as provided in Section 14.10.020(D), no structure or structural part excepted under this section from the building height limitations of this Code may be used for human habitation.

14.10.030 Special Exceptions to Building Height Limitations
Any person seeking a special exception to the building height limitations of this Code shall do so by applying for an adjustment or variance as described in Section 14.33 of this Code, and consistent with Section 14.52, Procedural Requirements.**

(*Amended by Ordinance No. 1839 (10-1-01).
**Amended by Ordinance No. 1989 (1-1-10).)
I. Applicant: City of Newport (initiated by motion of the Planning Commission on 9/26/16).

Request: The request before the Planning Commission is to review and to provide a recommendation to the City Council on proposed legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Chapter 14.10 ("Height Limitations") of the Newport Municipal Code. Changes allow vertical evacuation structures within mapped tsunami inundation areas south of the Yaquina Bay Bridge to exceed maximum building height limitations.

II. Findings Required: This is a legislative action and there are no applicable criteria.

III. Planning Staff Memorandum Attachments:

Attachment "A" – Markup of Amendments to Chapter 14.10 of the Newport Municipal Code
Attachment "B" – Map showing where vertical evacuation structures can exceed building height limitations
Attachment "C" – Notice of public hearing
Attachment "D" – Executive Summary - Marine Studies Initiative Building Siting Recommendation
Attachment "E" – Planning Commission Work Session Minutes for 8/22/16 and 9/26/16 meetings
Attachment "F" – Email from Bob Cowen, Director, Hatfield Marine Science Center, dated 10/18/16
Attachment "G" – Letter from the Department of Land Conservation and Development, dated 10/26/16
Attachment "H" – Copies of the Section 403 and 1704.5 of the 2014 Oregon Structural Specialty Code

IV. Notification: The Department of Land Conservation & Development was provided notice of the proposed legislative amendment in accordance with the DLCD requirements on October 7, 2016. Notice of the Planning Commission hearing was published in the Newport News-Times on November 4, 2016 (Attachment "C").

V. Comments: As of November 9, 2016, the Community Development Department received correspondence from Bob Cowen, Director, Hatfield Marine Science Center (HMSC) and Patrick Wingard with the Department of Land Conservation and Development (DLCD). The documents are enclosed as Attachments "F" and "G."

VI. Discussion of Request: Proposed revisions were initiated to create standards for the construction of vertical evacuation structures in tsunami inundation areas in light of Oregon State University’s July 6, 2016 announcement that they selected HMSC as the location for their new Marine Studies Initiative building (Attachment "D"). The announcement noted that they intend to incorporate vertical evacuation features into the design of the building. While the City has a process in place for applicants to seek a variance to building height limits, the City Council felt that this is an issue that might best be addressed legislatively given that the existing height limits were put in place before (a) the modern understanding of tsunamis and their potential impact on our community came to light and (b) vertical evacuation was developed as a tool for responding to tsunami risks. A legislative option could allow for the application of vertical evacuation technologies in a number of locations within the community. Considering the above, the Council directed staff to work with the Planning Commission on potential legislative amendments.

The Planning Commission discussed the matter at work sessions on August 22, 2016 and September 26, 2016 (Attachment "E"), and at the close of the September work session the Commission voted to initiate legislative amendments to Chapter 14.10 of the Newport Municipal Code, which sets out general exceptions to the building height limitations listed in the Zoning Ordinance. Draft amendments are listed in Attachment "A." The standards provide a non-discretionary means of authorizing vertical evacuation structures. At its work sessions, the Commission considered areas likely to be impacted by a tsunami, and expressed a desire to limit vertical evacuation structures to areas south of the Yaquina Bay Bridge reasoning that the City’s exposure to tsunamis is most acute in this portion of the community. Exposed areas north of the bridge are largely situated at the base of bluffs, so folks in those areas need only travel a short distance to reach high ground. A map of areas where vertical evacuation structures would be permissible is enclosed as Attachment "B."
Oregon State University and the Department of Land Conservation and Development provided comment on the draft code revisions (Attachment "F" and "G"). In response, staff has made additional changes to the Attachment "A" draft, including an explanation for each of the revisions. The Attachment "A" document include a policy option as it relates to the magnitude of a tsunami that a structure must be designed to meet, and a couple of the standards from the original draft have been removed but are listed as optional add backs. Some of the staff changes were made to better align the proposed, non-discretionary zoning code standards with the Oregon Structural Specialty Code and the relevant building code sections are enclosed for the commission’s review (Attachment "H").

VII. Conclusion and Recommendation: The Planning Commission should review the proposed amendments and make a recommendation to the City Council on the request. The Commission recommendation can include suggested changes to the proposed amendments.

Derrick I. Tokos, AICP
Community Development Director
City of Newport

November 9, 2016
Attachment “A”
CHAPTER 14.10 HEIGHT LIMITATIONS

14.10.010 Height Limitations

A building, structure, or portion thereof hereafter erected shall not exceed the height listed in Table A for the zone indicated except as provided for in Sections 14.10.020, General Exceptions to Building Height Limitations and 14.10.030, Special Exceptions to Building Height Limitations.

14.10.020 General Exceptions to Building Height Limitations

A. The following types of structures or structural parts are not subject to the building height limitations of this Code as long as the square footage of said structure or structural part is no greater than 5% of the main building foot print as shown on the site plan, or 200 square feet, whichever is less: chimneys, cupolas, church spires, belfries, domes, transmission towers, smokestacks, flag poles, radio and television towers, elevator shafts, conveyors and mechanical equipment.

B. No structure or structural part excepted under Subsection (A) from the building height limitations of this Code, whether freestanding or attached to another structure or structural part, may exceed the maximum allowable height by more than 25% unless approved by the Planning Commission per section 14.10.030.

C. Standalone antennas, cell towers, electrical transmission towers, telephone or electric line poles and other public utility types of structures or structural parts, where allowed by this Ordinance, are limited in height to 50 feet in R-1, R-2, R-3, R-4, W-1, W-2, W-3 and C-2 zones; 100 feet in the P-1, C-1 and C-3 zones; 150 feet in the I-1, I-2 and I-3 zones. A taller structure or structural part referenced under this subsection may be allowed upon the issuance of a conditional use permit per Section 14.33 of this Code.

Staff: A typographical error has been corrected. The City does not have a W-3 zone district.

D. A stand-alone structure or portion of a building designed for vertical evacuation from a tsunami where the property upon which the structure or building is located is situated south of the Yaquina Bay Bridge within the "XXL" tsunami inundation area boundary, as depicted on the maps titled "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport North, Oregon" and "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport South, Oregon" produced by the Oregon Department of Geology and Mineral Industries (DOGAMI), dated February 8, 2013 (i.e. the tsunami inundation maps) provided:
November 8, 2016 Markup of Proposed Amendments to Chapter 14.10 of the Newport Municipal Code to Allow Vertical Evacuation Structures to Exceed Maximum Building Height Limits

Staff: This language has been revised to acknowledge that vertical evacuation assembly areas can be incorporated into the design of a building or they may be developed as a stand-alone structure.

1. Evacuation assembly areas shall provide at least 10 square feet of space per occupant. Assembly areas that are incorporated into a building shall be sized to accommodate the maximum occupant load of that building. For stand-alone structures, the assembly area shall be sized to accommodate the occupant load of nearby building(s) and/or assembly area(s) to which it is associated; and

Staff: This standard has been added in response to comments provided by the Department of Land Conservation and Development, and provides direction as to how a vertical evacuation area should be sized. The 10 square foot per occupant threshold is consistent with recommendations contained in “Guidelines for Design of Structures for Vertical Evacuation from Tsunamis, Second Edition,” published by the Federal Emergency Management Agency and dated April, 2012.

2. Ingress/egress to the evacuation assembly area shall be signed in a manner consistent with state and/or federal guidelines for the identification of such facilities; and

Standard No. 3 - Alternative A

Staff: This language is consistent with the draft reviewed by the Planning Commission at its September 26, 2016 work session and allows the owner to identify the magnitude of the tsunami event that the facility should be designed to meet.

3. Plans and specifications, stamped by an architect or engineer licensed in the State of Oregon, establish that the structure is of sufficient height and has been designed to withstand an earthquake and wave forces attributable to the magnitude of the tsunami event for which the vertical evacuation structure is intended to provide relief; and

Standard No. 3 - Alternative B

Staff: This language responds to feedback from the Department of Land Conservation and Development, where they requested that the City require vertical evacuation structures be designed for an XXL event.

3. Plans and specifications, stamped by an architect or engineer licensed in the State of Oregon, establish that the structure is of sufficient height and has been designed to withstand an earthquake and wave forces attributable to an “XXL” tsunami event as depicted on the tsunami inundation maps; and
4. An architect or engineer licensed in the State of Oregon is retained by the applicant or land owner to perform structural observations during the course of construction. Prior to issuance of a building permit, the observer shall submit a written statement identifying the frequency and extent of the structural observations to be perform. At the conclusion of the work and prior to issuance of a certificate of occupancy, the structural observer shall submit a statement that the site visits were performed and that any deficiencies identified as a result of those observations were addressed to their satisfaction.

Staff: This section has been modified to more closely align with requirements listed in Section 1704.5 of the Oregon Structural Specialty Code for structural observations during construction related to seismic resistance and wind loads. At the same time, it addresses concerns raised by the OSU design team regarding the certification language contained in the prior draft and the frequency at which observations would have to be performed.

DE. Except as provided in Section 14.10.020(D), No no structure or structural part excepted under this section from the building height limitations of this Code may be used for human habitation.

Staff: While it is arguable that this subsection wouldn't apply to vertical evacuation areas since they are not designed per se for human habitation, this change makes it clear that is the case.

Optional Standards:

- The evacuation assembly area is the roof of the structure; and

- The lowest floor of rooms or enclosed spaces designed for human occupancy are located no higher than 50-feet above the finished grade adjacent to the exterior of the structure; and

Staff: These standards were included in the draft set of revisions discussed by the Commission at its September 26, 2016 meeting. The requirement that evacuation assembly areas be limited to rooftop areas was added by the Commission in recognition of the fact that a vertical evacuation structure will already exceed height limitations by a substantial amount and adding additional pitched roof features would unnecessarily exacerbate the visual impact on the surrounding landscape. The 50-foot height limit for enclosed spaces designed for human occupancy limit accounts for the equipment constraints of the Newport's Fire Department.

The OSU design team expressed concerns that the rooftop assembly area requirement is too limiting and would preclude designs that incorporate the
assembly area within an enclosed location. Also, in discussing the issue further with Newport Fire Chief, Rob Murphy, he was satisfied that the Department could provide an adequate response for occupied floors up to 75-feet, above which provisions in Section 403 of the Oregon Structural Specialty Code for high-rise buildings trigger. Those provisions require that enhanced access and fire suppression capabilities be incorporated into the interior of a building so that a fire can be fought from the inside as opposed to the outside of the building. In short, the Department has indicated that they do not need a height limitation to be imposed as a result of limitations related to their response capabilities.

The inundation maps produced by DOGAMI suggest a wave height for an XXL event isn’t likely to exceed 70-feet. Low lying areas in South Beach are around 12-feet in elevation, so it is unlikely that a structure over 75-feet in height would be needed. It is possible that a structure 50 to 60-feet in height would be sufficient, depending upon its location.

14.10.030 Special Exceptions to Building Height Limitations
Any person seeking a special exception to the building height limitations of this Code shall do so by applying for an adjustment or variance as described in Section 14.33 of this Code, and consistent with Section 14.52, Procedural Requirements.**

(*Amended by Ordinance No. 1839 (10-1-01).
**Amended by Ordinance No. 1989 (1-1-10).)
Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, November 14, 2016

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

Commissioners Absent: Bill Branigan (excused) and Jim Hanselman (excused).

City Staff Present: Community Development Director (CDD) Derrick Tokos, Executive Assistant Sherri Marineau, and City Recorder Peggy Hawker.

1. Call to Order & Roll Call. Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, and Franklin were present. Branigan and Hanselman were not in attendance for the meeting.

2. Approval of Minutes.

A. Approval of the Planning Commission work session and regular session meeting minutes of August 8, 2016, and the work session meeting minutes of August 22, 2016.

MOTION was made by Croteau, seconded by Berman to approve the Planning Commission work session meeting minutes as presented. The motion carried unanimously in a voice vote.

3. Citizen/Public Comment. No public comments.


5. Public Hearings. Chair Patrick opened the public hearing portion of the meeting at 7:01 p.m. by reading the statement of rights and relevance. Lee expressed comments on hearing. Patrick asks the commissioners for declarations of conflicts of interest, ex parte contacts, bias or site visits. Hardy declares ex parte contact on File 2-Z-16 hearing. Contact from individual who didn’t understand the purpose of hearing and was advised to contact Tokos with comments or attend this meeting. Croteau declares a site visit on 3-Z-16. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File No. 2-Z-16. Chair Patrick opens the hearing for File No. 2-Z-16 at 7:04 p.m. by reading the summary of the file from the agenda. He called for the staff report. Tokos presents staff report and notes there were two prior Commission work sessions for this hearing. Modifications were made based on conversations with the Department of Land Conservation and Development and feedback from Hatfield Marine Science Center. This process was referred by City Council. While variance on books for tsunami evacuation areas, it wasn’t put in place for this purpose or in place before there was a modern understanding of tsunamis and potential impact on communities. There was a work session on Sept 26th.

Attachment "A" covers code typo. Tokos felt areas identified South of bridge more appropriate and eligible. He notes the standalone structure or portion of the building was changed due to feedback from Hatfield Science Center. This was not discussed at the work sessions. With respect to building specific, they wanted vertical evacuation to accommodate occupancy load. It shouldn’t be a problem in most cases in an assembly area. It can be designed for large amount of people. FEMA requirements are included.

Ingress/egress standard plan specifications are slightly modified from Hatfield suggestions. It is in the report because it is policy call. Option “A” and “B” dictations are noted. Tokos requests the commission decide on which option should be brought to the City Council for consideration. Croteau says if state structure they would make the call, but it’s not. He states he would go with Option “A”. Hardy thinks we should consider general welfare. Berman favors option “B”. If going through expenses for evacuation area, the public should be able to say it has been designed for...
worst possible case. Should be designed to do the best possible job you can. OSU is planning on designing for the XXL and supports this. Hardy asks if an engineer stamp tells us enough about engineer and asks what kind of guarantee the stamp provides. Tokos says it is their certification that the plans have been designed to the standards. It is the best guess based on their knowledge. Whether or not it is going to be sufficient to withstand a tsunami is the question. The Japanese have gone through this. Some successful, some not. Croteau states it is one thing to build for XXL but in this case, it is on top of building and the entire building needs to be designed to a very high standard. He asks why doesn’t every building in an inundation zone go forward with this. Tokos explains they don’t design for vertical evacuation. The thought is the people will be out of those buildings and somewhere else. Patrick asks about the 80 feet for the XXL. Tokos says that if you look at tsunami map you are looking at 50-60 feet in height. Hardy asks how are you measuring the wave height. Tokos-based on modeling Bill Gamby did. You don’t want to design to the foot and have a margin of error. Patrick states you are still talking 60 feet and see why OSU is talking about a standalone structure. Tokos doesn’t know how OSU wants to tackle it. Patrick says if defined as XXL you better say design to meet it. Doesn’t make sense to define as XXL and then only can do a large. Croteau thinks XXL is one possibility. Tokos thinks you can go either way with this and provide a sound policy. XXL provides the greatest safety for the public. On flip side you could make the case that they can’t achieve that and do you want to preclude an XL.

Berman notes typo in No. 4 of Alternate “B” to be changed to "to be performed". Tokos confirms the change.

Tokos notes that “Section E. Change on Exemption for Habitation” was added because vertical evacuation areas are not designed for habitation but for an assembly area. Berman asks about Section E and ongoing usage of an area. He asks what would keep anyone from setting up an office in these areas. Tokos says nothing. The concerns above 50 feet are based on our understanding of adequate fire response. Fire Marshall Murphy in the audience tonight and we have had conversations on this.

Tokos doesn’t think there will be a lot these. Provisions in the building code that trigger for high rise development is 75ft or larger and will make anything of this nature cost prohibitive. There is more that goes into so that the fire department can effectively manage the structure. We were comfortable to limit at 50 feet based on that standard. This is a big change from what we are currently doing. It could be used as lunch room/office. Franklin asks since they are saying it is for a tsunami evacuation building, you are in a sense just raising the height of how it can be built. Yes. Franklin doesn’t agree with that. The harm is when you have to put people in the top of the building, there will be desks and chairs in the way. Tokos states when designing for these buildings they won't be able to set them up so it and is unsuitable for that purpose. A vertical evacuation area is a different type of occupancy setup from and office. This will affect how rooms are arranged and constructed. Berman asks if someone can use this ordinance to circumvent around the 50 feet height limit. They would be doing a significant amount of engineering for evacuation and would not easy. Berman is troubled by this but can see practicality. Croteau asks about 10 feet per person being free space. It is coupled with standards saying they are designing for their occupant load. If it is built for 500 people it would need 5,000 square feet of assembly area.

Rob Murphy, the Newport Fire Department Chief and Managers of the Emergency Management Department for the City of Newport gives clarification on occupant loads and use. If entire occupancy of building has to fit within that space, the assembly use for the fire code means the standing room is 7 feet per person or 10 feet for the FEMA guideline. Most of business occupancy space is 30 feet per person and less than what assembly would allow. They don't get a lot of options on how an office could use the space. When occupancy load is figured, Murphy takes that into account. Occupancy load is based on how the area will be used. Berman asks if usage of the space evolves over time, how often do you come back for reevaluation. Murphy explains on a structure like this, our goal is once a year with a worst case scenario being a 3-year period. Berman clarifies that his question is concerning assembly areas over time having accumulation in the designated area. Murphy states he would tell them they couldn't store their items there based on occupant load.

Murphy has experience with high rises as a fire fighter but first time as a fire chief. If this was an integral part of structure with regular stories above 50ft he would have concerns on operational limitations. High rise building is extremely difficult. The recent City Center Motel fire had every firefighter in the county working it. If there was a high rise fire over 4 stories it would challenges mainly due to man hours. The next ladder truck is in Lincoln City and only one here. He would need 3-4 trucks for a high rise and not a reality for us. Franklin asks since it is a four story building would it be all noncombustible? Murphy states just to meet the seismic standards it would probably be a type 1 bldg. Franklin says this may be the reason they don’t want to store a bunch of documents in that area. Once Murphy
found out more about it he had less concerns with it being an evacuation structure. When talking about high rise buildings, he suggests some of the requirements for smoke proof exit enclosures start in at the 75-foot height and promotes self-egress. This probably doesn't apply to this. Patrick asks about standalone structures. Murphy imagines them being open structures like parking structures. Tokos clarifies the code is drafted as either standalone structures or incorporated into a building. He doesn’t know the approach they intend to pursue at this time. We have the ability through the fire code side to purse more robust standards. He cautions on buildings side as we operate on a state mandated minimum/maximum code. We can't really play around on building side but fire has a little more flexibility. There are specific standards for lavatories.

**PROONENTS, OPPONENTS, OR INTERESTED PARTIES:** None present.

Chair Patrick closed hearing at 7:40pm and commenced deliberations.

Franklin favors building to the worst case scenario. If you are letting them build for a lower height, they are only building the structure to appease the people and could potentially be putting people in harm. If they’re serious about making this to save lives, it needs to go to the highest level at XXL.

Croteau feels XXL is a moving target and too much of a restriction. Hesitant to lock in specifications based on such an uncertainty.

Berman believes XXL is the appropriate standard. It’s time to do some precise scientific work. If they do it, they will automatically adjust. If they do decide there is a possibility of a XXXL we can revisit. It is the worst case scenario and thinks that is what these buildings should be built to.

Hardy thinks the purpose here will enable an entity to express some high risk behavior. She thinks the City in its own best interest needs to require some of the higher standards of performance including the object third party engineering review on a daily basis. It will add an additional cost, but if an event would occur, think of what they would have to do to rebuild anyway. If spending money upfront it should be spent with an eye to ensure longevity and public welfare. Hardy believes designing to the XXL standard is appropriate and we can revisit if the standards are changed. We haven’t experienced any of these events and is a big unknown. Need to ensure what we do is done to the highest standard possible.

Patrick feels if you are going to make your map to XXL it should be the standard we build to. He is not fond of this. Another problem with structures getting really tall is it is not so much standing structures as when you put it on a building. If you put it on a building there is going to be a tendency to want to use the area. Standalones wouldn’t have much reason to be accessing the area. Croteau asks Patrick if what he is hearing him say is they could build the building to whatever standard they wanted but separate structure to the XXL. Patrick states if you are going to have the standard you are going to have the standard for XXL and it should be built to it. Croteau states you can build an evacuation structure cheaper and is in essence what we are driving OSU to do. Patrick says he was looking at a map and it showed it at 80-feet above sea level and would mean a 90-foot structure.

Franklin asks if before this evacuation idea was brought forward, could anyone have built this structure in South Beach and not been required to do a vertical evacuation. Tokos states nobody is required to do a vertical evacuation and this is an option. Franklin is scared of the false sense of security. Patrick reminds that earthquakes and tsunamis don’t always line up. It depends on how it is moving.

Croteau feels as a practical sense the building will not be built with this standard but the evacuation structure will. Will be hard to buy in to XXL because he doesn’t think they could build a building of that size to withstand that. Franklin feels as long as there is access from all sides of building it is good. Croteau says it would allow for a larger footprint. They wouldn’t have to build as high and would have lower costs. Tokos doesn’t know what their intentions are at this time in terms of whether or not to incorporate it into the building proper or produce a standalone. We are discussing a sort of hybrid. There is no detailed design at this point and will have more info later in year.

Patrick feels we should add that in the lowest floor rooms, you can go higher than 50 foot and have occupied floors. This is speaking to Robert Murphy’s points. Tokos states what we are talking about is assembly area type occupancy up there with limited applications.
Berman asks if the optional standard should read the highest floor. Tokos meant the lowest floor itself at that level shouldn't be below 50ft. Occupant load will be in consideration as well as fire exits. It is hard to distinguish between occupancy.

Murphy explains this kind of use is almost its own classification. It doesn't really fit under the “U” classification. Berman asks if Murphy is comfortable with using occupancy limits. Murphy states with the right controls and direction on use we could. We need to be very particular with what that use is and whether we address this as a committee or on the building code end. Tokos reiterates we have a fair amount of leverage on the fire code and it may come down to actually seeing a specific proposal for us to be able to address some of these things.

Berman asks if occupancy certification can have restrictions. Murphy says from a fire safety standpoint he can; he has the right to but they can appeal. Croteau asks hypothetically what would Murphy prefer. Murphy prefers option “B” but thinks we can work with option “A” as long as we are clear with expectations. There are not a lot of options on what they can use the area for option “A”.

Croteau states he is persuaded by the argument and doesn’t feel XXL is going to preclude construction. That being said, he is not prepared to make a motion.

Hardy asks for clarification on what the other optional standards are. They are the optional standards on page 3 and 4. Hardy feels a need to be stricter on wording with engineer oversight and qualifications. Patrick likes what we have. If engineer is going to put their stamp on it and tell you how much inspections you are going to need, that is good. He is more worried about finding an expert to hire in Oregon. They may not be available in Oregon but in Japan. They could get a local firm to sign on and use someone in Japan to design it.

Hardy states because of seeing the oversight in the last years in the county, she is worried about engineers being held accountable. She would like to see it a little tighter and is not sure if she is suggesting an amendment. Patrick feels it is better than a lot he has seen. Hardy feels it is a good start.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin, to forward a recommendation to the City Council to adopt the changes to Chapter 14.10 in height limitations as outlined in the document and include standard No. 3 alternative “B” as worded, not including the other optional standards. The motion carried in a voice vote with Hardy voting “No”.

B. File No. 2-Z-16. Chair Patrick opened the hearing for file 3-Z-16 at 8:31 p.m. by reading the summary of the file from agenda. He calls for the staff report. Tokos notes that there is no development proposed with this project and is just a rezoning of particular properties. He acknowledges that Kevin Greenwood, from the Port of Newport is in attendance for this hearing.

Berman states he is confused on maps. He says Attachment “A-2” talks about two areas that will swap zoning and would like clarification on which two areas are they. Tokos explains that on Attachment “A-2” the cross hatch is the existing W-2 they have and would go to W-1. East of that the highlighted area goes form water related to water dependent. There are two halves of the 9/10ths of the acre that are going from water related to water dependent then another going from water dependent to water related and is an equal area. Tokos explains why the adjustments are appropriate and the rational for the zoning change. He notes there is not impact on transportation or vehicle trips.

PROPOUNENTS, OPPONENTS, OR INTERESTED PARTIES: Kevin Greenwood, General Manager of the Port of Newport thanks the City for bringing the opportunity and allows for flexibility if anc when it comes. The Port
Commission has been protective of the two-acre area for the fishing fleet. A developer approached the Commission to put in a small boutique hotel and the Commission felt it wasn’t the direction they wanted to go in. They are committed to using the area for fleet support for long term.

Berman asks what the short term plans are for use for the new W-1 area. Greenwood explains that at this time the Port doesn’t have any specific plans for development and it isn’t a high priority for them. They have talked a little about using it for potential parking and for equipment support or storage. Retail is less of an interest. The fish market was an idea in the past but not a huge interest in going that direction by the Board. It is more so for the commercial fleet interests. They are giving up more of the industrial type zoning. The new zoning could be more commercial/industrial for fleet. Tokos explains the retail piece would now be 9/10th of an acre.

Greenwood wanted to compliment Tokos for the three different proposals he gave to the Commission and how he showed how the land could be reapportioned. The Commission agreed with Tokos’ recommendation of having a more flexible zoning closer to England and the Yacht Club. Greenwood explains it was a consensus but doesn’t think it was a formal motion.

Chair Patrick closed hearing at 8:17 p.m. and commenced deliberations.

The Committee agrees that they have no issues and proposal makes sense to each.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to recommend adoption of the amendments described in File No. 3-Z-16. The motion carried unanimously in a voice vote.


7. **Unfinished Business.** No unfinished business.

8. **Director Comments.**

A. Tokos states the second meeting of the 2040 Advisory Committee happens on Wednesday, November 16, 2016. The website is up now if interested in how the process is progressing. The group is meeting at 9:30am to discuss additional pieces and a large public outreach.

B. Marine Studies Initiative Building Outreach meeting will be held on Thursday, November 17, 2016 from 5–7pm at the Hatfield Visitor Center. Tokos encourages Committee to attend. The design team had some questions on issues they should be thinking about before building facility. They will do this by doing outreach upfront. They will have some graphic to visualize and are preliminary drawings. This is an information gathering meeting where they show where they are at, where they want to go, and gather feedback and concerns.

C. Berman asks what is happening with Vertical Evacuations. Tokos explains the height limitation will get notice for City Council action possibly on Dec 5th. If adopted, on that day it will be effective 30 days out. OSU knows of this hearing.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:20 p.m.

Respectfully submitted,

Sherri Marineau  
Executive Assistant
October 26, 2016

Derrick I. Tokos
Community Development Director
City of Newport
169 SW Coast Hwy
Newport, OR 97365

Delivered via email: d.tokos@newportoregon.gov

RE: Municipal Code Zoning amendment: Vertical evacuation structures (2-Z-16); DLCD File No. 006-16

Dear Derrick:

We appreciate having the opportunity to work with you on this proposal. The City of Newport is a highly valued partner in Oregon’s Coastal Management Program and a leader amongst Oregon’s coastal communities in planning for a Cascadia Subduction Zone earthquake and tsunami. We laud the city for its initiative and proactive approach in confronting this unique and challenging issue. We look forward to continued collaboration with the City on this project as well as other planning and community development endeavors in the future.

Newport’s proposed plan amendment to allow vertical evacuation structures to exceed maximum building height limits is consistent with DLCD’s Tsunami Land Use Guide recommendations. Horizontal evacuation to high ground after an earthquake is always the preferred option to get to safety before a tsunami hits the Oregon coast. However, in certain locations and instances, vertical evacuation may be the only or best option. While it is possible to get to high ground via Safe Haven Hill or the Oregon Coast Community College campus from the South Beach area, it may not be possible for everyone to reach high ground in time. This proposed amendment will allow for the building of vertical evacuation structures to provide an alternative or back-up option to the South Beach community and the many visitors who frequent this area.

The parameters set forth in the proposed amendment limit the scope of the allowance for vertical evacuation structures to just the area south of Yaquina Bay, where the City’s exposure to tsunamis is most acute. The language also stipulates the plans and specifications of these structures must be
designed to withstand an earthquake and wave forces attributable to the event for which the structure is intended to provide relief, and to allow public access to this emergency option in a tsunami event.

In addition to the parameters the City already specifies in the proposed plan amendment, DLCD also recommends adding the following conditions:

- Vertical evacuation structures should be of sufficient height to place evacuees above the XXL (extra extra-large) level of tsunami inundation for the area in which it is located; and,
- Vertical evacuation structures proposed as a component of new development shall provide at least sufficient capacity to accommodate the evacuation needs of the proposed development.

We request that this letter be entered into the record of the proceedings. If you have questions or would like to further discuss anything contained in this letter, please contact me at your convenience at (503) 812-5448 or via email at patrick.wingard@state.or.us. Thank you very much for your time and consideration and for the opportunity to comment on this important proposal.

Yours truly,

Patrick Wingard

Patrick Wingard
North Coast Regional Representative

Copy. Meg Gardner, DLCD Coastal Shores Specialist
Matt Spangler, DLCD Senior Coastal Policy Analyst