

August 31, 2022

Dear Planning Commission members and staff,

I bring to your attention a quote from a letter sent from the Oregon Department of State Lands dated July 19, 2022 addressed to Red Crow, LLC, Attn: Jamie Lerma and signed by Peter Ryan, SPWS, Aquatic Resource Specialist stating "Please be advised that state law establishes a preference for avoidance of wetland impacts."

The wetlands in question are those at the northwest corner of Spruce and 1st Street in downtown Cannon Beach. They are a very narrow band of wetlands along Spruce St, 00.03 acres in size. The proposed area of development on this corner is heavily vegetated with wetland plants including quite a number of willows which shade the wetlands. I find it impossible to imagine how the removal of almost all of this wetland vegetation would not adversely impact these wetlands. The removal of the canopy, as well as the roots of the trees which absorb excess water, would without a doubt cause a major disruption in the wetland ecology. If these wetlands were to dry up due to the loss of vegetation and protection from the drying effects of the sun and wind, I foresee that whole lot flooding during major rain events without the wetlands to absorb the extra water.

Perhaps you can remember just last winter when the bank, Mariner Market and public parking lots flooded during just such an event. Climate change is causing more severe weather events. In our part of the world, that means rain. I foresee major flood events becoming more common. No one is going to want to live in the homes and apartments built on that lot when they become aware of the potential for winter flooding.

Leave the wetlands alone. They exist for a very valuable purpose. Every time humans mess with Mother Nature, they eventually regret it. Please don't make a decision which could potentially put people at risk of damage to or loss of their homes. As badly as Cannon Beach needs workforce housing, I don't believe this is the place to put it. Each and every wetland, no matter how small, benefits us in ways we may not even realize. Please protect this wetland and deny the application to build on this lot.

Sincerely,

Susan Glarum  
PO BOX 108  
Cannon Beach, OR 97110

## Robert St. Clair

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**From:** Jeffrey Adams  
**Sent:** Thursday, September 1, 2022 11:53 AM  
**To:** David Vonada  
**Cc:** Robert St. Clair; Bill Kabeiseman; Jay Orloff  
**Subject:** RE: Conditional use applications for Cannon Beach Business Park and Ecola Square East

David,

Thanks for the comments regarding the applications before the Planning Commission. Although I agree with you that the landscape and detailed site plans might be better served or limited to DRB review, both the Conditional Use and Tentative Plan standards (CBMC 17.80.020(B&C) & 16.04.190(A)(7) give rather broad discretion to what the Planning Commission can ask for under "other information as requested..." and what they "may impose, in addition to those standards and requirements expressly specified for that use, other conditions which it considers necessary to protect the best interests of surrounding property or the city as a whole." Please note that the tree report is required under CBMC 16.04.180(M). I've copied and highlighted the applicable criteria below.

As far as the affordable housing criteria there are really only the housing policies mentioned under the applicable standards of the Subdivision ordinance (CBMC 16.04.130(E)), as the Construction Excise Tax (CBMC 03.20) specifies only that the funds should be utilized to support the city's affordable housing program. I'll be drafting a staff report, which will hopefully respond to and guide the PC's consideration on these matters.

We'll also forward your comments to the Planning Commission for their consideration, as well, and include them in the public record. Please let me know if you have any questions.

Best,  
Jeff

### Title 16 SUBDIVISIONS

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#### 16.04.130 Applicable standards.

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##### E. Housing Policies.

1. Housing Policy 1. In order to maintain the city's village character and its diverse population, the city will encourage the development of housing which meets the needs of a variety of age and income groups, as well as groups with special needs.
2. Housing Policy 3. To the extent possible, the city shall endeavor to accommodate **affordable** housing in a manner that disperses it throughout the community rather than concentrating it at specific locations.
3. Housing Policy 5. The city recognizes the importance of its existing residential neighborhoods in defining the character of the community and will strive to accommodate new residential development in a manner that is sensitive to the scale, character and density of the existing residential development pattern.
4. Housing Policy 6. The city shall preserve and enhance the qualities that contribute to the character and liveability of its residential areas. These qualities include limited traffic disruptions, uncongested streets, and a low level of noise and activity.
5. Housing Policy 11. The city will provide flexibility in regulations governing site design so that developments can be adapted to specific site conditions.

6. Housing Policy 12. The city will consider the use of cluster development and planned development techniques as a means of preserving common open space, protecting significant natural features, and providing for a variety of **affordable** housing types.

7. Housing Policy 13. To the extent feasible, higher density housing developments should be located in proximity to the city's major employment areas and arterial streets.

#### **16.04.170 Tentative plan—Form.**

The tentative plan shall be clearly and legibly drawn. The size of a subdivision tentative plan shall not be less than eighteen inches by twenty four inches. The partition plan may be on eight and one-half by eleven inch paper, mylar or other material. The map of a subdivision or partition shall be at a scale of one inch equals fifty feet or one inch equals one hundred or at a scale that is sufficient to show the detail of the plan and related data. (Ord. 95-20 § 1)

#### **16.04.180 Tentative plan—Map contents.**

The tentative plan for a subdivision shall contain the following information. The tentative plan for a partition shall contain the following information that is required by the city as is determined at the conference with the partitioner:

- A. Proposed name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation with any other recorded subdivision;
- B. North point and date;
- C. Location of the subdivision by section, township and range, and legal description sufficient to define the location and boundaries of the proposed tract;
- D. A vicinity map, at an appropriate scale showing adjacent property boundaries and abutting land uses;
- E. Names, addresses and telephone numbers of the owner or owners of the property;
- F. Name, business address, telephone number, and number of the registered engineer or licensed surveyor who prepared the plan of the proposed subdivision and the date of the plan preparation;
- G. Streets existing: location, names, pavement widths, alleys and rights-of-way on and abutting the tract. Source of datum shall be indicated on the tentative plan;
- H. Streets, proposed: location, right-of-way, roadway widths, approximate radius of curves, and grades;
- I. Streets, future: the pattern of future streets from the boundary of the parcel to include other tracts within two hundred feet surrounding and adjacent to the proposed land division;
- J. Easements: location, widths and purpose of all existing or proposed easements on and abutting the tract;
- K. Utilities: location of all existing and proposed storm sewers, sanitary sewers and water lines on and abutting the tract;
- L. Contour lines having the following minimum intervals:
  - 1. Two-foot contour intervals for ground slopes twenty percent or less.
  - 2. Five-foot contours intervals for ground slopes over twenty percent.
- M. **Wooded areas: location of all trees with a diameter six-inch or greater when measured four feet above the ground;**
- N. Flood areas: location of the one hundred year floodplain;
- O. Lots and parcels: approximate dimensions of all lots and parcels, all lot sizes in square foot or acres, and proposed lot and block numbers;
- P. All parcels of land intended to be dedicated or reserved for public use, with the purpose, condition, or limitations of such reservations clearly indicated;
- Q. Existing uses of the property, including scaled location and present use of all existing structures to remain on the property after platting. (Ord. 95-20 § 1)

#### **16.04.190 Tentative plans—Other information.**

- A. Other information required for the tentative plan includes the following:
  - 1. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units, so as to reveal the effect of the development on traffic, and fire protection;
  - 2. Proposed covenants and restrictions;
  - 3. Partial development. If the subdivision proposal pertains to only part of the tract owned or controlled by a subdivider, the city may require a sketch of a tentative layout for streets in the unsubdivided portion;



4. Where required by Chapter [17.50](#), a geologic site investigation report;
5. Where the site includes wetlands, a wetland delineation with the boundaries of the wetlands shown on the plan map;
6. If the oceanfront setback for individual lots is to be established as part of the approval of the subdivision, the location of the proposed oceanfront setbacks and a description of the covenants and restrictions which will be applied to the property in order to implement the setback location;
7. **Other information as requested by the planning commission.**
- B. The city may require any of the following to supplement the tentative plan.
  1. A conceptual grading plan;
  2. Appropriate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction. (Ord. 95-20 § 1)

## **Chapter 17.80 CONDITIONAL USES**

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### **17.80.020 Authorization to grant or deny.**

A. Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered upon authorization by the planning commission, or denied by the planning commission. This will be done in accordance with the comprehensive plan, standards for the district, standards in Chapters [17.44](#) through [17.78](#) and [17.90](#), additional zoning provisions, and other city ordinance requirements. The burden is upon the applicant to demonstrate that these requirements can be met.

B. In permitting a conditional use or the modification of an existing conditional use that involves a housing type (e.g., planned unit developments, multifamily, manufactured dwelling park, manufactured dwelling subdivision), the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which it considers necessary to protect the best interests of surrounding property or the city as a whole. These additional conditions are as follows:

1. Increasing the required lot size or dimensions;
2. Reducing the required height and size of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the required off-street parking spaces;
5. Increasing the required street width;
6. Limiting the number, size, location and lighting of signs;
7. Requiring diking, fencing, screening, landscaping, berms or other items to protect adjacent or nearby areas;
8. Designating sites for open space;
9. Specifying the types of materials to be used;
10. Specifying the time of year the activity may occur;
11. Specifying the type of lighting to be used.

C. In permitting a conditional use, or the modification of a conditional use, other than a housing type, the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which are necessary to protect the adjacent property, an identified resource, or the city as a whole. Such conditions may include those set out in subdivisions 1 through 11 of subsection B of this section, but are not limited thereto. (Ord. 90-10 § 1 (Appx. A § 47); Ord. 79-4 § 1 (6.020))

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### **17.80.110 Overall use standards.**

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

A. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.

B. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

C. The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.

D. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.

E. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

F. The site and building design ensure that the use will be compatible with the surrounding area. (Ord. 20-03 § 3)

### **Chapter 3.20 CONSTRUCTION EXCISE TAX**

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#### **3.20.210 Dedication of revenue.**

A. The city may retain up to four percent of the taxes collected for payment toward administrative expenses related to collection and distribution of the tax.

B. For the tax imposed on residential improvements, the net revenues, after deducting administrative expenses, will be distributed as follows:

1. Fifteen percent of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.

2. Fifty percent of net revenue will be transferred to the affordable housing fund to support developer/builder incentives for affordable housing authorized by the city.

3. Thirty-five percent of net revenue will be transferred to the city's affordable housing fund to support the city's affordable housing program.

C. For the tax imposed on commercial improvements, one hundred percent of net revenue will be distributed to the affordable housing fund to support the city's affordable housing program. (Ord. 17-7 § 1)



**Jeff Adams**

*Community Development Director*

**City of Cannon Beach**

p: 503.436.8040 | tty: 503.436.8097 | f: 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | e: [adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us)

Get the latest on all Community Development happenings by signing-up for COMMUNITY NOTIFICATIONS, visit our [Sign Up List](#).

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**From:** david@tolovanaarchitects.com <david@tolovanaarchitects.com>

**Sent:** Wednesday, August 31, 2022 8:24 PM

**To:** Jeffrey Adams <adams@ci.cannon-beach.or.us>

**Cc:** Jay Orloff <jay@tolovanaarchitects.com>

**Subject:** Conditional use applications for Cannon Beach Business Park and Ecola Square East

Jeff:

I would like this email to be included in the record for both the Cannon Beach Business Park and Ecola Square East Conditional Use Applications for which I am the applicant.

I would like to establish the following:

1. Neither a landscape plan, tree report, or detailed site plan or building construction are required per the City's Conditional Use application form. It is therefore beyond the scope of the planning commission to request this information from an applicant. These items are and should be a part of a Design Review and building permit application. The Planning Commission members need to be reminded of this fact by the planning staff and City's attorney, not the applicant.
2. The City's affordable housing policy only applies to rental housing, not single family dwellings developed for sale. Again, It is not the responsibility of the applicant to educate the Planning Commission members of the City's policy, I will be submitting a revised site plan with more for rent units and less single family dwellings for the Ecola Square property, however I will be advising my client to not commit to an artificially low sales price for the single family dwellings if there is not a policy of financial incentive program from the City.

Thank You,

*David Vonada*





September 1, 2022

Cannon Beach Planning Commission  
Cannon Beach, OR

Re: CD # 22-01 and CU #22-03, application of David Pietka (Davidspruce LLC) for a development on 1<sup>st</sup> and Spruce Streets

Via email:

Jeff Adams: [adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us)

Katie Hillenhagen: [hillenhagen@ci.cannon-beach.or.us](mailto:hillenhagen@ci.cannon-beach.or.us)

Dear Chair Newton and Cannon Beach Planning Commission,

Oregon Coast Alliance is an Oregon nonprofit corporation with a mission of protecting coastal natural resources and working to increase community livability. We write you tonight with a concern for the application by David Pietka (Davidspruce LLC) for a development on 1<sup>st</sup> and Spruce Streets.

This is a complex application, and the unanswered questions are many. Perhaps the wisest course at this time is to pose some of the questions the planning commission needs to answer before continuing with this application, and relevant comments.

1. This property is zoned Limited Commercial. Residential uses are allowed as a conditional use. Is residential housing of any type the appropriate use for this property, which is not only zoned Commercial, but lies in a commercial area of the city?
2. Wetlands are not just wet places on the surface of the ground; they have extensive underground or surface water sources that feed the area and provide the water for the wetland to remain healthy. Does this proposal protect the water sources of the wetland, as well as the wetland itself?
3. When is the applicant proposing to provide a Tree Removal Application? The city's decision-makers should not be making a determination without reviewing such an application.

4. Conditional Use standard 17.80.110 (A) requires the planning commission to determine if a demand exists for the use **at the proposed location**. There does not seem to be any indication in the project materials that the proposed residential use at this site is appropriate for a commercial area, or would in any way likely be affordable/workforce housing. What guarantees does the planning commission have, or could it get, that if housing is an appropriate use on this site, it would be affordable, other than the developer's statement?
5. Geotechnical reports might be made available for the planning commission's review before making a decision on the conditional use permit. These are not mere technical reports to be handed in after conditional use approval.
6. Conditional Use Standard 17.80.110 (F) requires the use to be compatible with the surrounding area. Proposing a largely residential development in a commercial area, on a site zoned for commercial uses, raises questions about compatibility of uses that the planning commission needs to visit in detail. This is especially true given the vague assurances that this will be "affordable or workforce housing."

Thank you for the opportunity to testify in this matter. Please place this testimony into the record for this application.

Sincerely,

*/s/ Cameron La Follette*

Cameron La Follette





September 1, 2022

I am submitting 54 names objecting  
to the development of the 1st & Spruce  
Wetlands by Davespruce, LLC.

This is for the packet and hearing  
on the above Wetland Conditional  
Use Permit on September 6<sup>th</sup>

Thank you for including.

Lolly Champion  
P.O. Box 614  
Cannon Beach OR  
97110

City of Cannon Beach  
Finance Department

SEP - 1 2022

Received

## SAY NO TO WETLANDS DEVELOPMENT!

Place your name to support saving wetlands

First & Spruce Wetland ADJACENT TO ELK PARK

5 CLUSTER HOMES & 4-PLEX APARTMENT BUILDING

proposed for workforce housing with what guarantee - for how long?

NAME	P.O. BOX	ZIP
JAN SIEBERT-WAHRMUND	P.O. B. 778	CB OR 97110
Wes Wahrmond	PO Box 978	CB OR 97110
Lucinda Hayes	PO Box 872	CB OR 97110
SUSAN GLARUM	PO BOX 108	CB, OR, 97110
GAZZ JOHNSON	POB 1374	CB OR 97110
Nancy Johnson	POB 1374	CB OR 97110
Pamela Arila	PO Box 724	CB OR 97110
Diana Byrne	PO Box 1298	CB OR 97110
Nancy Shier	P.O. Box 518	CB OR 97110
Peggy Thom	P.O. BOX 693	C.B, OR, 97110
Tabea Goossen	PO Box 19	CB, OR 97110
JAMES Fontaine	PO Box 1354	CB OR 97110
Linda D. Hintz	P.O. BOX 712	CB OR 97110
Arlene Hintz	P.O. Box 712	C.B. OR 97110
John Rippay	PO Box 655	C.B. OR 97110
Betty Leach	PO Box 137	C.B. OR 97110
Michael Dean	PO Box 137	C.B OR 97110
Michael Dean	PO Box 137	CB OR 97110
Kirsten Massebeau	P.O. Box 603	CB OR 97110
Phil Massebeau	PO Box 603	CB 97110

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## 5 CLUSTER HOMES & 4-PLEX APARTMENT BUILDING

proposed for workforce housing with what guarantee - for how long?

[illegible]



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5 CLUSTER HOMES & 4-PLEX APARTMENT BUILDING

proposed for workforce housing with what guarantee - for how long?

NAME	P.O. BOX	ZIP
Lini France	Leslie France PO Box 820	97110
Mark (Roger Neugebauer)	PO Box 244	97110
Bonita Neugebauer	PO Box 244	97110
Linda Mayer	Linda Mayer PO Box 1384	97110
Steven Mayer	PO Box 1384	97110
Scott L Johnson	PO Box 176	97110
Mary Beth Allen	PO Box 492	97110
Mike Decker	PO Box 694	97110
Ken Potter	P.O. Box 492	97110
Kathryn Shapiro	P.O. Box 738	97110
Donald Shapiro	P.O. Box 738	97110
Barbara Hunkoome		
MARK Hunkoome		
Jack Clenaghan	P.O. Box 202	97145
Patty Clenaghan	PO Box 202	97145

**SAY NO TO WETLANDS DEVELOPMENT!**

*Place your name to support saving wetlands*

**First & Spruce Wetland ADJACENT TO ELK PARK**

**5 CLUSTER HOMES & 4-PLEX APARTMENT BUILDING**

*proposed for workforce housing with what guarantee – for how long?*

[illegible]