



June 17, 2022

Jeffrey Adams
City of Cannon Beach
163 East Gower Street
Cannon Beach, OR 97110

**Subject: Forest Lawn Partition (P 22-01/CU 22-02)
Response to Public Comments**

Dear Mr. Adams:

This letter is provided on behalf of Patrick/Dave LLC (applicant) as a response to public comments provided on the above referenced application. Below is a list of the primary issues raised by the commentors followed by a brief applicant response.

1. Commentors have incorrectly cited that a subdivision and a cluster development are proposed:

The applicant is proposing a partition, not a subdivision. Cannon Beach Municipal Code (CBMC) Chapter 16.04.50 provides definitions for “partition land” and “subdivide land” that are consistent with the Oregon Revised Statutes (ORS) Chapter 92, which governs land divisions within the state of Oregon. As only three parcels of land are proposed with this application, this land division action is considered a partition per Cannon Beach code and Oregon state law.

Cluster development is not being proposed with this application. CBMC 16.04.050 defines “cluster housing” as a residential development where house sites or structures are grouped closer together than the standards of the underlying zoning district. The applicant is not requesting flexibility from any R2 zone development standards through the provisions established by CBMC 17.60.010. In addition, the density proposed (3 dwelling units per acre) is considerably less than the maximum allowed by the R2 zone (11 dwelling units per acre). For these reasons, the development being proposed is not a cluster development.

2. Commentors have incorrectly stated that only one “small” dwelling or one “small” duplex is permitted within the project site:

This is incorrect. The number of dwelling units allowed within the project site is established in part by the R2 zone standards and the Wetlands Overlay (WO) zone standards. CBMC 16.04.130 identifies a maximum allowed density of 11 dwelling units per acre within the R2 zone. For lots being created through a partition in the WO zone, the number of dwelling units is also limited by the upland square footage of the project site. CBMC 17.43.050(M)(2)(a) states that each lot created must have at least 1,000 square feet of upland area available for building coverage, required off-street parking, and required access. The applicant has proposed and configured the partition to contain three lots and, consistent with CBMC 17.43.050(M)(2)(a), each lot has at least 1,000 square feet of upland area and available area for off-street parking and access, as shown on the Tentative Partition Plan (Exhibit B within the application package). Therefore, each proposed lot is allowed at least one dwelling unit. The resulting density of the project site is 3 dwelling units per acre, which is considerably less than the allowed maximum of 11 dwelling units per acre.

3. Commentors have incorrectly stated that wetland impacts/fill is proposed:

As described within the applicant's narrative and also shown on the Tentative Partition Plan (Exhibit B within the application package), no portion of the project site's wetland, or its associated five foot buffer, will be impacted or filled with this application. Development will only occur within the upland portions of the project site, where single-family residential dwellings are permitted outright within the R2 zone.

Further, the applicant is anticipating and would accept a condition of approval that would require the recordation of a conservation easement over the entirety of the wetland within the project site. It is anticipated that the conservation covenant limits would be clearly demarcated in the field with signage stating that human activity and disturbance within the area is prohibited. These measures will further ensure the long-term protection of the wetlands.

4. Commentors have incorrectly stated that the wetland delineation is inaccurate and/or did not thoroughly evaluate the site.

The project site has been delineated by Pacific Habitat Services (PHS), a well-respected wetlands and natural resources consulting firm with significant history in the Pacific Northwest and with a deep familiarity with this site in particular.

Public comments incorrectly state that the applicant's team was unable to access all portions of the project site to determine the wetland boundaries. This is not true. PHS had full access to the property and dug and examined multiple soil pits throughout the site, resulting in a final determination that the site contains one, 29,618 square foot wetland within the property. The complete wetland delineation is included as Exhibit E within the application package. This delineation has been approved by the Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Corps) (see Exhibits F and G within the application package).

It is possible that the commentor was mistaken about the extent of investigations on the site because the PHS report cites an assumption that the City's Local Wetland Inventory (LWI) study did not involve an on-site field investigation when it was done in 1993. That statement does not pertain to PHS, who had full access throughout the site to determine the wetland limits.

Also, PHS first delineated the wetlands within the property in 1999. PHS Wetland Scientist Caroline Rim conducted the field work both in 1999 and 2020. Both wetland delineation reports were approved by DSL. The 2020 PHS report was also approved by the Corps, as previously mentioned.

Lastly, it was also suggested by one commentor that the absence of documented data points in the wetland delineation report is an indication that an area was not sampled. That is not the case. Soil pits were evaluated throughout the property and were not limited to those reflected in Figure 6 within the wetland delineation. Both the Corps and DSL want to see representative data points and not an exhaustive number of data points. These were provided by the soil pits identified on Figure 6 within the wetland delineation report. Soils, hydrology and vegetation were all analyzed around the delineated wetland boundary to affirm the wetland limits as reflected in the final delineation.

5. Commentors have incorrectly noted that "extensive" tree removal is proposed:

Extensive tree removal, or "clear cutting", is not being proposed with this application. While it is anticipated that tree removal within each proposed lot will be required in order to construct dwellings,

driveways, parking/vehicle turnaround areas, install utility connections, and remove trees that are in poor health and pose a hazard to future development, those reasons are entirely consistent with the permitted circumstances under which trees can be removed per CBMC 17.70.20(A) and (D). The Arborist Report (Exhibit I within the application package) identifies the project site's trees, including their species, diameter at breast height (DBH), and health.

As shown on the Tentative Partition Plan (Exhibit B within the application package), the project site's lot layout has been designed to preserve the vast majority of the site's natural resources, including the entirety of Wetland A and its associated buffer, as well as a large majority of the site's existing trees. The only trees preliminarily identified for removal are those within Table 4 of the applicant's narrative, where removal is necessary for the following reasons:

- In order to construct dwellings, driveways, parking/vehicle turnaround areas, and install utility connections;
- Poor health and structure; and
- Hazard risk for future development due to health.

Tree removal is permitted for each of the identified reasons pursuant to CBMC 17.70.020. The total DBH of the project site's mature trees is 1,188 inches, and the total DBH of the trees anticipated for removal is 386 inches, which represents only 32 percent of the project site's total tree DBH.

Any required tree removal permit applications will be submitted at the time of building permit submittal, and no trees will be removed until building permits have been issued as required by CBMC 17.70.030(B). The list of trees identified for removal in Table 4 of the applicant's narrative represents an estimate of the trees that will meet the code standards for removal within the buildable area of each lot.

If you have any questions regarding any of the material presented herein, please do not hesitate to contact me at 971-229-8318 or mrobinson@dowl.com. The applicant team is also happy to discuss the project in detail with any member of the public if you would like to relay our contact information and offer that outreach.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Robinson', followed by a long horizontal line extending to the right.

Matthew Robinson
Associate Planner