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Subject Cannon Beach Community Development Ordinance (CDO) Audit Project
To Jeffrey Adams, Community Development Director, and Code Audit Joint Commission (City Council, Planning Commission, and Design Review Board)
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Memo #2: Decision-Making Procedures

Introduction

There are two groups of decision-making procedures and criteria that apply to land development in Cannon Beach:

1. Those having to do with technical standards outside of local zoning and land development ordinances (Titles 16 Subdivisions and 17 Zoning), such as building code, public works standards, and standards from other agencies (fire district, FEMA, US Corps of Engineers).
2. Cannon Beach Community Development Ordinance standards within Titles 16 and 17, which are intended to produce development as envisioned in the Comprehensive Plan. This includes regulation of land uses (e.g., permitted and conditional uses), special uses such as short-term rentals, dimensional standards (e.g., building setbacks and height), and design standards (e.g., parking, landscaping, and natural hazard requirements).

The code concepts presented in this memorandum only apply to this second category of decision-making procedures and criteria found in Titles 16 and 17.

Decision-Making Issues

The issues related to the current code include:

- Numerous locations where decision-making procedures are found in Titles 16 and 17. This makes the code more cumbersome to read and understand.
- Duplicative narrative regarding review procedures in various locations instead of being consolidated and located in one code section that is shorter and more concise.
- Conflicting review process and notice requirements.
- The code does not always specifically identify the review process or approval authority.
- Review procedures are not commensurate with certain applications; e.g., high levels of scrutiny such as design review being applied to a single family home.

Review Procedure Structure - Recommendation

Development codes for local governments commonly have four types of land use decisions that each follow different procedures that are generally related to the size, scope, and potential impacts of the development approval sought. The Cannon Beach development ordinances have a system that resembles this four-tier structure, but the process for many application types is not clearly identified and defined. Often reference is made to the “city” as the approval authority without identifying if it is the Planning Director, Design Review Board, Planning Commission, or City Council.

The four recommended land use and development application types are described below.:

Type I Ministerial

Description: These development actions involve permitted uses and/or development regulated by clear and objective criteria, and they do not rely upon discretionary standards.

Approval Authority: Planning Director

Review Process: No preapplication conference; approval or denial by the Planning Director provided to the applicant; and no public notice. Appeals are rare, and only the applicant has the right to appeal.

Typical Examples: Review of single-family residence, minor exterior alteration to and existing nonresidential use, certain types of tree removal permits

Type II Administrative

Description: These actions are presumed to be appropriate within their zoning district and location, and they are subject to reasonably objective criteria that require limited discretion. Potential impacts associated with such uses may necessitate imposition of specific conditions of approval to minimize adverse impact and ensure code compliance.

Approval Authority: Planning Director

Review Process: Preapplication conference may be required or requested by the applicant; approval, approval with conditions, or denial by the Planning Director; public notice for comment in advance of the decision and public notice following the decision. Decision may be appealed by the applicant or the public.

Typical Examples: Certain types of tree removal permit. Type I home occupation

Type III Quasi-Judicial

Description: These involve development applications that may be approved or denied through an exercise in discretion when applying the applicable development criteria and, in some cases, applicable Comprehensive Plan policies.

Approval Authority: Design Review Board or Planning Commission

Review Process: Preapplication conference is typically required; approval, approval with conditions, or denial by the Design Review Board or Planning Commission; public notice of the public hearing; and public notice following the decision. Decision may be appealed by the applicant or the public.

Typical Examples: Proposals requiring design review, subdivision, and conditional use applications

Type IV Legislative

Description: These involve the creation, broad scale implementation, or revision public policy to the text of the Comprehensive Plan, development code, and large-scale amendments to planning and zoning maps where a significant number of property owners are directly affected.

Approval Authority: City Council

Review Process: Unlike Type I-III review, these actions are normally initiated by the city. Notice of public hearings are provided, and the proposed amendments to the Comprehensive Plan and/or implementing ordinances are review by the Planning Commission, which forwards a recommendation to the City Council for a decision.

Typical Examples: Comprehensive Plan, Title 16, and Title 17 next amendments along with map amendments usually affecting multiple properties that are not at the specific request of the property owners.

Recommended Next Steps

Step 1: Categorize Land Use Applications

The existing code is often not completely clear regarding the applicable review process. For example, reference to “the city” is made for the approval authority. This first recommended step is to review the procedure for each of the current development applications and assign one of the four procedural types according to the best match with the review procedure used today. The four procedure types should be fully described in one code section with the applicable process type clearly assigned to each of the development applications, such as home occupations, tree removal, design review, subdivision, and conditional use. No fundamental change in the way applications are reviewed and approved would result. It would provide a better understanding of how different land use applications are currently reviewed.

Step 2: Match Procedure Type with Application Scale and Complexity

Next, each application and the corresponding review process should be evaluated for being generally commensurate with the scale and complexity of the proposed development along with the potential for adverse impacts to neighboring properties or the community in general. Applications with a modest scale and cost generally should be subject to an expedient and predictable review and approval process. A property line adjustment or minor building setback variance would be examples where a Type I or II process would be more appropriate than Type III. Large-scale proposals such as subdivisions or new commercial development would generally be assigned to a Type II or Type III process.

The advantages of right-sizing the review process to the scope and complexity of different applications is threefold:

1. The applicant is not faced with unnecessary processing time, expense, and uncertainty for a modest proposal with little or no potential impacts, such as a lot line adjustment or minor setback variance as mentioned above.
2. The staff can work more efficiently by administering simple land use cases.
3. The Design Review Board and Planning Commission will have more time to focus on significant land use cases and planning policy issues (e.g., legislative projects resulting in recommendations to City Council).

Step 3: Appropriate Approval Criteria for each Application Type

For the application review structure to function properly, the approval criteria must coincide with the procedure type as described above. Once the applications are organized by Type I through IV, the applicable criteria should be evaluated and amended to correspond to the application type. Type I criteria must be clear and objective with virtually no interpretation required to review an application. Type II criteria should primarily be the same as Type I, but with the allowance of some limited interpretation. Type III applications may include a combination of objective and subjective criteria; however, the subjective criteria should be as clear and specific as possible to yield consistent results from one application to another. For example, a code criterion that simply refers to compliance with the Comprehensive Plan is not particularly helpful to the applicant or the approval authority because it is wide open to different interpretations. Type IV cases often involve general planning policy issues, and the Comprehensive Plan and statewide planning requirements typically guide these types of decisions.