

BEFORE THE CITY OF CANNON BEACH

IN THE MATTER OF A REQUEST FOR REMEDIAL)
DUNE GRADING AT 1288, 1296, AND 1316 S. PACIFIC)
ST. PROPERTIES APPROVING THE REQUEST AND)
ADOPTING FINDINGS)
) **FINDINGS OF FACT,**
CONCLUSIONS, AND
ORDER NO. DP 22-04

ZONE: Residential Medium Density (R2)
Oceanfront Management Overlay (OM)
Flood Hazard Overlay (FHO)

APPLICANT: Bob McEwan Construction, Inc.

The above-named applicant applied to the City for review and approval of a permit to perform remedial dune grading to manage sand encroaching on the subject properties at taxlots 51030DA03401, 51030DA03402, and 51030DA03400. The City of Cannon Beach orders that the request for remedial dune grading is granted and adopts the following findings of fact, conclusions, and conditions contained in Exhibit C.

This decision may be appealed to the Planning Commission by an affected party by filing an appeal with the City within fourteen days of this date.

DATED: February 16, 2022



Robert St. Clair
Planner

EXHIBIT “A”
FINDINGS OF FACT
SHORELINE STABILIZATION MAINTENANCE (DP# 22-04)

PROPERTY DESCRIPTION: 51030DA03401, 51030DA03402, and 51030DA03400

PROPERTY LOCATION: 1288, 1296, and 1316 S. Pacific St.

APPLICANT: Bob McEwan Construction, Inc.

PROPERTY OWNERS: Troy Johnson (1288 S. Pacific St.)
Pamela MacLean (1296 S. Pacific St.)
Stacy Niedermeyer (1316 S. Pacific St.)

ACTION: Approved with conditions

BACKGROUND

The proposed project is for the grading of sand adjacent to the western property line of the subject properties for the purpose of managing sand that is encroaching onto the subject properties. No material will be added or removed by this project.

APPLICABLE CRITERIA

Cannon Beach Municipal Code chapter 17.42, Oceanfront Management Overlay zone and 17.92.010, Development Permits are applicable to this request.

FINDINGS

(1) Section 17.42.030.D.3 allows remedial dune grading as a permitted activity in the Oceanfront Management Overlay zone:

D. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provisions of Section 17.92.010, Development permits:

3. Remedial dune grading.

(2) Section 17.42.060.A.4 defines specific standards for remedial dune grading in the Oceanfront Management Overlay zone:

Remedial Dune Grading. “Remedial grading” is the clearing of sand necessary to maintain the function of a structure and includes the removal of sand that has built up against exterior walls, doors, or windows of a structure and that blocks access to a residential or commercial structure, or any public facility, utility or infrastructure. Permits for remedial grading may be approved subject to the following requirements:

- a. *Rear yard sand may be removed to the level of the top sill of the foundation, as measured from within thirty-five feet of the habitable structure. From the ten-foot line, the graded area shall slope upward to the elevation of the fronting foredune. This slope shall not exceed fifty percent.*
- b. *Side yard sand that is landward of the structure may be removed to the top of the sill of the foundations, provided grading in this area does not create a slope in excess of fifty percent with adjacent properties.*
- c. *Where the front yard is seaward of the structure, sand may be removed to the level of the top sill of the foundation, as measured from within thirty-five feet of the habitable structure. From the ten-foot line, the graded area shall slope upward of the elevation of the fronting foredune. This slope shall not exceed fifty percent.*
- d. *Grading shall not lower the front yard below the level of adjacent streets or roads, except to clear sidewalks or driveways.*

Areas graded more than three feet in height shall be immediately replanted and fertilized. All graded sand must remain within the littoral cell. Graded sand should be used to fill adjacent low dune areas. Graded sand may also be used to nourish identified areas as needed. The height of the foredune shall not be lowered. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

(3) Section 17.92.010.A.1.b states the requirement for specifically listed activity or structure types requiring a development permit:

An activity or structure specifically listed in this title as requiring a development permit. (For the purpose of this section, these are referred to as Type 2 or Type 3 development permits.)

(4) Section 17.92.010.C.2 defines the administrative review procedure for Type 2 development permits:

2. *Administrative review of Type 2 development permits shall follow the following procedure:*
 - a. *The development permit application shall be reviewed by planning department against the applicable standards contained in this title and the application shall either be approved, approved with conditions, or denied.*
 - b. *A decision shall be made within twenty days of the receipt of a complete application.*
 - c. *The decision of the planning department shall be by signed written order. The order shall comply with Section 17.88.110(B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.*
 - d. *The applicant shall be notified of the decision in accordance with the provisions of Section 17.88.130. Property owners within one hundred feet of the exterior boundary of the subject property shall likewise be notified.*
 - e. *A decision on the development permit may be appealed to the planning commission in accordance with Section 17.88.140.*

CONCLUSIONS

The Community Development Department has reviewed the application, visited the site and determined that the application meets the applicable criteria, upon the following conditions:

DECISION

The shoreline stabilization repair has been approved subject to the following conditions:

- (1) The applicant shall coordinate this project with Oregon Parks and Recreation Department and obtain all permits required for this work including beach access for vehicles.
- (2) The project shall adhere to the specific standards for remedial dune grading defined in CBMC Section 17.42.060.A.4.
- (3) The completed work shall be reviewed by the City of Cannon Beach to confirm that the remedial grading goes not constitute a major change of character.

Exhibit B

Project Area Map



Exhibit C

FINDINGS OF FACT OCEANFRONT MANAGEMENT OVERLAY ZONE USES AND ACTIVITIES

CONDITIONS APPLIED TO THE PERMIT TO ENSURE THAT PERTINENT STANDARDS ARE MET:

The conditions of this permit are subject to review by the City or at the request of the applicant. Failure to adhere to these conditions shall cause written notice that permit has been revoked.

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- (3) The completed work shall be reviewed by the City of Cannon Beach to confirm that the remedial grading goes not constitute a major change of character.