



BEFORE THE CITY OF CANNON BEACH

IN THE MATTER OF A DEVELOPMENT)	
PERMIT FOR AN EXTENSION OF THE)	
STORMWATER MANAGEMENT SYSTEM ADJACENT)	FINDINGS OF FACT,
TO TAXLOT# 51030DA04100 APPROVING THE)	CONCLUSIONS, AND
REQUEST AND ADOPTING FINDINGS)	ORDER DP #22-19

ZONE: Residential Medium Density (R2)


APPLICANT: Bob McEwan Construction Inc.
P.O. Box 2845
Gearhart, OR 97138

The above-named applicant applied to the City for review and approval of a development permit for the purpose of installing an extension of the stormwater management system adjacent to Taxlot 51030DA04101, along the Forest Lawn right-of-way.

The project area is adjacent to a delineated wetland, however the submitted plans indicate that all work will take place outside of the wetland and its buffer areas. The City of Cannon Beach orders that this request for approval of a development permit is granted subject to conditions, and adopts the findings of fact, conclusions and conditions contained in attachment A.

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: December 16, 2022



Robert St. Clair
Planner



EXHIBIT "A"

FINDINGS OF FACT

TAXLOT 4100, FOREST LAWN DR. STORMWATER MANAGEMENT SYSTEM – DP#22-19

PROPERTY DESCRIPTION:	Forest Lawn Right-of-Way, adjacent to Taxlot# 51030DA04100
PROPERTY LOCATION:	Non-addressed undeveloped parcel on Forest Lawn Dr.
APPLICANT:	Bob McEwan Construction Inc.
PROPERTY OWNER:	Patrick/Dave LLC
ACTION:	Approved

BACKGROUND

The approved project for the installation of no more than 200 linear feet of subsurface stormwater distribution piping, extending the City of Cannon Beach's stormwater management system. The purpose of this project is to relocate the stormwater outfall located approximately 30 feet north of the property's southwestern corner on Forest Lawn Dr. to a location 140 to 175 linear feet northward. This project will be carried out in conjunction with stormwater management system improvements at 1603 Forest Lawn Dr., authorized by Development Permit 22-17. No material will be removed as a result of this project and any displaced soils will be used to cover newly installed piping.

APPLICABLE CRITERIA

The following sections of the Cannon Beach Municipal Code are applicable to this application:

- 17.43.045 – Uses and Activities Permitted Outright in Wetland Buffer Areas
- 17.63.030 – Grading and Erosion Control Permit
- 17.92.010 – Development Permit
- 17.88.110 – Decision

FINDINGS

- (1) Section 17.43.030(C) states that underground or above ground utilities are an activity permitted outright in wetlands. The stormwater management system at Taxlot 4100 meets the definition of an underground utility. Based on the best available information provided in the Pacific Habitat Service's recent wetland study, dated March 19, 2021, which was prepared for an unrelated development proposal on the subject property this project is not within a delineated wetland or wetland buffer area.

17.43.035 Uses and Activities Permitted Outright in Wetland Buffer Areas



The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, if permitted outright in the base zone.

C. Underground or above-ground utilities.

- (2) Section 17.62.030(A)(1)(a) states that a development permit is required for any amount of clearing, grading, filling within one hundred feet of a stream, watercourse, or wetland. Based on the wetland delineation prepared for the subject property, this project will be within 100 feet of a wetland and its buffer area.

17.62.030 Grading and Erosion Control Permit

A. Development Permit Required.

- 1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:*
 - a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland.*

- (3) Section 17.92.010.C.2 defines the administrative review procedure for Type 2 Development Permits.

- 1. 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.*

- (4) Section 17.88.110 defines the decision making process for land use applications.

Following the procedure described in Section 17.88.060, the hearing body shall approve, approve with conditions



or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.

- A. The decision of the hearing body shall be by a written order signed by the chair or designee.*
- B. The order shall incorporate finding of facts and conclusions that include:
 - 1. A statement of the applicable criteria and standards against which the proposal was tested;*
 - 2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision;*
 - 3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.**
- C. 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. (Ord. 90-10 § 1 (Appx. A § 64); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.070))*

CONCLUSIONS

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

CONDITIONS

- 1. Work shall be restricted to upland portions of the subject property and not take place within the delineated wetland on Taxlot 4100 or its buffer areas;
- 2. A site plan of the erosion control measures shall be approved by the Public Works Director prior to ground disturbance;
- 3. Any tree removal applications or any tree protection zone fencing, where necessary, shall be approved and established prior to ground disturbance;
- 4. Work shall be completed prior to January 1, 2023, where possible, and any ground disturbance of exposed surfaces during the wet season (November 1 through April 30) should be temporarily planted with grasses, or protected with erosion control blankets, hydro-mulch, or hand broadcast straw a minimum of 3 inches thick and punched into the soil;
- 5. The use of motorized equipment shall be limited to the hours of 7:00am and 7:00pm per Municipal Code Section 8.16.
- 6. The City shall be notified 48 hours prior to on-site disturbance.

