



**BEFORE THE CITY OF CANNON BEACH**

<b>IN THE MATTER OF A DEVELOPMENT</b>	)	
<b>PERMIT FOR EXCAVATION IN CONJUNCTION</b>	)	
<b>THE REPLACEMENT OF A GARAGE ON TAXLOT#</b>	)	
<b>51031DD04500 APPROVING THE</b>	)	<b>FINDINGS OF FACT,</b>
<b>REQUEST AND ADOPTING FINDINGS</b>	)	<b>CONCLUSIONS, AND</b>
		<b>ORDER DP #22-20</b>

ZONE: Residential Moderate Density (R1)


APPLICANT: Tolovana Architects  
P.O. Box 648  
Tolovana Park, OR 97415

The above-named applicant applied to the City for review and approval of a development permit for the purpose of excavation in conjunction with a garage replacement at 3724 S. Hemlock St., Taxlot 51031DD04500.

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 21, 2022**




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Robert St. Clair  
Planner



## EXHIBIT "A"

### FINDINGS OF FACT

#### 3724 S. HEMLOCK ST., TAXLOT 51031DD04500, GARAGE REPLACEMENT – DP#22-20

<b>PROPERTY DESCRIPTION:</b>	Taxlot# 51031DD04500
<b>PROPERTY LOCATION:</b>	3724 S. Hemlock St.
<b>APPLICANT:</b>	Tolovana Architects
<b>PROPERTY OWNER:</b>	Tom & Jennifer Matson
<b>ACTION:</b>	Approved

#### BACKGROUND

The approved project is for excavation in conjunction with the replacement of an existing garage at 3724 S. Hemlock St. Cannon Beach Municipal Code requires the issuance of development permits for excavations or ground clearance activities in excess of 250 square feet or in conjunction with a structure requiring a building permit.

#### APPLICABLE CRITERIA

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

- 17.63.030 – Grading and Erosion Control Permit
- 17.92.010 – Development Permit
- 17.88.110 – Decision

#### FINDINGS

- (1) Section 17.62.030(A)(1)(b) states that a development permit is required for the clearing, grading, filling, or excavation of any area that exceeds 250 square feet that is more than 100 feet from a stream, watercourse, or wetland.

##### *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:*
  - b. The proposed clearing, grading, filling, or excavation is located more than one hundred feet from a stream or watercourse or wetland and the affected area exceeds two hundred fifty square feet;*



(2) 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.*

(3) 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. A site plan of the erosion control measures shall be installed and approved prior to ground disturbance;
2. Tree protection zones shall be established for trees on Taxlot 51031DD04400 prior to the start of work;
3. Work shall be completed prior to January 31, 2023, where possible;
4. The use of motorized equipment shall be limited to the hours of 7:00am and 7:00pm per Municipal Code Section 8.16.

## Site Map

