

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, March 23, 2023

Present: Chair Clay Newton and Commissioners Anna Moritz, Mike Bates, Les Sinclair Aaron Matusick, and Dorian Farrow, Aaron Matusick via Zoom

Excused: Commissioner Erick Ostrander

Staff: Land Use Attorney Bill Kabeiseman, City Manager Bruce St. Denis, City Planner Robert St. Clair, and Community Development Administrative Assistant Emily Bare

CALL TO ORDER

Chair Newton called the meeting to order at 6:04 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Motion to amend the agenda to discuss AA#23-01 prior to SR# 23-01 per Mike Morgans request. Commissioner Bates moved to approve the amended agenda and Commissioner Farrow seconded the motion to amend the agenda for discussion.

Vote: Sinclair, Matusick, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

(2) Consideration of the Minutes for the Planning Commission Meeting of January 26, 2023

Motion: Commissioner Bates moved to approve the minutes; Commissioner Farrow seconded the motion.

Vote: Sinclair, Bates, Moritz, Matusick, Farrow and Chair Newton voted AYE; the motion passed

(3) Public Hearing and Continuation of AA#23-01, Dana Cardwell for an administrative appeal of the City's approval of Development Permit DP#22-19.

AA#23-01, Public hearing and continuation of an administrative appeal submitted by Dana Cardwell of the City's approval of Development Permit DP#22-19 for the extension of a stormwater management system in the Forest Lawn right-of-way adjacent to Tax lot# 4100, Map 51030DA, a Residential Medium Density (R2) zoned property. The request will be reviewed pursuant to Cannon Beach Municipal Code, Section 17.88.180, review consisting of additional evidence or de novo review and applicable sections of the Zoning Ordinance.

Site Visits were made by Farrow, Sinclair, Bates, Matusick and Moritz.

Robert St. Clair Read the staff report.

Commissioner Bates questioned St. Clair regarding a violation notice sent by Cannon Beach Police Department for non-permitted activity happening on the property. Bates wanted to know what violations were listed on the notice. Chair Newton questioned who had completed the work on the property.

Chair Newton asked Kabeiseman whether the record was opened or closed, it was determined that the record was not closed during the January 26, 2023, meeting as the Committee did not move forward with the 120-day rule. Instead the committee continued the meeting to February, which was cancelled due to weather. The discussion was left open.

Commissioner Sinclair asked how the violation notice affects the appeal in question. Newton explained that the violation happened on the same property as the appeal, it has to do with storm water discharge into the line that the City wants to extend. Moritz mentioned the development agreement between the City and the developer to complete the work on the street, however this work was completed to benefit the developer's property. Bates asked Kabeiseman if the committee found that the work had not been corrected adequately it would be within the committee's right to withhold a decision on the application. Kabeiseman explained that the code enforcement process is handled differently than that of the Planning Commission is to review the application submitted and whether it complies with the applicable criteria.

Sinclair asked for clarification as to whether the committee takes consideration into this occurrence or if it is out of the committee's purview. Newton and the committee agreed that they should take it into consideration, and with that Mr. Larma should be given a chance to speak.

Public Testimony

Applicant: None

Proponent:

Jan Siebert-Wahrmund
PO Box 778
Cannon Beach, OR 97110

What is the 120-day time period date? Her question was answered as April 28, 2023.

Opponent:

Jamie Larma
PO Box 825
Cannon Beach, OR 97110

There was one shovel one man work that was done on March 10, 2023. There was no pipe that was attached to the drain system. There was perforated pipe that was extended east about 20 feet that caught water on the wetland buffer that was draining onto Dorsey's property after she moved her walking path retaining wall that was built on Mr. Pietka's property. At some point a gravel walkway had been built on that property along the side of her house that was on Pietka's property. Underneath the pathway is gravel.

When Dorsey moved the gravel, water was visibly running from her property and onto the wetland buffer on Pietka's property. A pipe was placed in that location that extended 20 feet to stop the water from flooding onto the property. They did not connect any piping to the City's drain system. When the site was visited by the City Planner and Chief of Police on March 14, 2023, it was determined that no further action needed to be taken.

Commissioner Bates questioned Larma where the water was draining now. Larma explained that the water is continuing to run. Larma explained that the Dorsey property is backfilled with gravel and the back yard has drain rock, so the water that drains/runs from her property runs to the low point which is the wetland. The pipe was placed to move that water 20 feet to the east. The pictures that were presented are Dorsey's pipe draining 15-20 feet into Pietka's property.

Staff response: No

Public Record Closed 6:34pm

Chair Newton does not feel that this violation is in purview of the Planning Commission, Kabeisman agreed.

Commissioner Bates questioned the professional report, he believes that the report is based off of Dorsey's property and not the extension with the City connection. St. Clair read the reports. Commissioner Bates wants to know the impact of moving the storm drain 140 feet north. The Commission spoke in regard to the January staff report as well as the first report supplied and if it was/wasn't determined if the run off from the storm water actually made an impact on the actual wetland. Kabeisman explained the verbiage in the second report which specifically states that they do not find surface water indicators indicating surface water is not present in the wetland during full seasonal precipitation.

Commissioner Moritz questioned if we have enough information regarding the storm water drainage. Bates doesn't believe that the prior Community Development Director ever properly addressed the utility and storm drainage issues. Bates expressed his concerns and believed that this should be a conditional use permit and not a development permit.

Kabeisman reiterated that storm water overlay regulates use and activities in the wetlands, this is not a use or activity in the wetland. This activity occurs outside of the wetland and outside of the wetland buffer. Cannon Beach Municipal Code Section 17.43.050 Standard (a) and (j)

- A. General Standards. Uses and activities in protected wetlands and in wetland buffer areas are subject to the following general standards. Development may also be subject to specific standards in subsequent subsections.
- J. Stormwater Management. Management of stormwater flowing into protected wetlands or wetland buffer areas is subject to the following standards:

Chair Newton explained the issues with the way that the development permit was written. Kabeisman explained that they can agree to disagree, but that is not how he would read the code and advise.

Sinclair believes that the Planning Commission's focus should be on the extension of the line at 140 feet and if the information the City has provided us gives us the confidence that the impact on the wetlands will have

an adverse effect. We asked the City to ask experts on what would happen with the extension of the 140 foot line.

Sinclair expressed his understanding on the current situation, we requested expert information, but we are not taking it because we don't like it or because it is not decisive enough, Farrow believes the Committee needs more decisive information and shouldn't rush into a decision.

Sinclair summarized the group's sentiment that we don't agree that this permit was properly done, and we vote to send the appeal back due to legitimate concerns that have not yet been addressed by the new data that was provided to the committee. Farrow agrees with Sinclair.

Kabeiseman explained the applicant retains the burden of proof in the event of tie. The city would probably be better served to use the 120-day rule.

Motion: Bates moves that the appeal is upheld and if the City believes a development permit is required then they must provide the required information with the permit so the public can see that the process was followed. Farrow seconded the motion.

Vote: Sinclair No; Matusick No; Bates Yes; Farrow Yes; Moritz No; Newton Yes. The vote was 3:3.

Moritz is concerned at how we are reading the requirements in an overlay zone versus outside the overlay zone. Continued discussion regarding the City right-of-way property, and if the right-of-way is a wetland lot of record. Kabeiseman answered questions about separating the development permits away from the rest of the project, ORS 27175.

The commission discussed the expert reports presented to the committee.

Kabeiseman explained the conditions around being hopelessly deadlocked versus continuing to the next meeting. A deadlock would result in the denial of the appeal. He also reviewed the mandamus process and rights of the applicant.

Sinclair wants storm water management input. Moritz wants this to go to the City Council. Bates stated that Caldwell will not appeal.

Motion: Bates moved that the Commission finds itself hopelessly deadlocked resulting in the denial of the original permit. Sinclair seconded the motion.

Vote: Sinclair, Bates, Moritz, Bennett, Farrow, Matusick and Chair Newton voted AYE; the motion passed

(4) Public Hearing and Consideration of SR#23-01, Mike Morgan request on behalf of Jeff and Miriam Taylor for a Setback Reduction for a porch addition to allow emergency access at 1956 S. Hemlock St.

SR 23-01, Mike Morgan, on behalf of Jeff and Miriam Taylor, application to allow a setback reduction to reduce the back yard setback from the required 15'0" to 5' in order to build a small porch of 72 square feet to be used as an emergency access. The property is located at 1956 S.

Hemlock. (Tax Lot 04300, Map 51030DD), and in a Residential Medium Density (R2) Zone. The request will be reviewed against the Municipal Code, Section 17.645.010, Setback Reduction, Provisions Established.

Sinclair, Moritz and Newton made site visits.

St. Clair read the staff report.

Presentation by applicant:

Mike Morgan
PO Box 132

Morgan first noted his appreciation for comments included in the staff report, “with the exception of the Public Works and Rick Hudson letter, which [he had] not seen.” He stated that the entirety of the setback will be on private property, and that the seismic valve should not be affected as it will be placed within the City right-of-way (ROW). Morgan recalled that the new construction’s footprint would be essentially the same as the former dwelling, with minor changes that still maintained a low floor area ratio (FAR). He then explained his understanding that the exit in question would be used in the event of an emergency, rather than for everyday activities or parking, and suggested that La Bonte had not thought her decision through.

Commissioner Moritz asked if there was any way to lessen the amount of the setback requested. Morgan explained that this is a “no big deal type of request. You could ask for a smaller space, but why? It is a three-story building that needs to have access”. Morgan stated that the right-of-way is very large, because of the angle of the east wall, they are asking for a variance of 10-feet.

Jeff and Miriam Taylor
2005 W Huntsville
Broken Arrow, OK 74001

The homeowner wanted to add that the distance of the porch is just to bridge the gap between the stairs and the retaining wall.

Sinclair wanted to clarify that the existing stairs that go down are only five feet from the property line on that side. Taylor agreed. The committee agreed that the drawings in the packet were misleading and appeared about twelve feet from the property line. Taylor explained that they just wanted to go to the edge of the wall.

Morgan added that because of the angle of the northeast corner wall, they are also asking for a variance of four and a half feet into the setback which is eleven feet from the property line. They were unable to find the property line under the large spruce tree. Morgan felt that it was obvious that the building needed to be closer to the setback than fourteen feet.

Proponents: None

Opponents:

Karen La Bonte
Public Works Director

The City Public Works Department is in the middle of a \$15 million project with Windsor Engineering to design and engineer a plan for construction to install seismic valves on each of the City's drinking water reservoir's as well as placing them in strategic locations within town. These valves will allow the water system to detect seismic activity and automatically shut the valves on the reservoirs to save the loss of the City's drinking water system. The purpose of this system is to provide drinking water to the community within seventy-two hours of a catastrophic event. When La Bonte reached out to the engineering firm which is comprised of both seismic and geotechnic engineers she asked what the effect of this request would have on the initial construction and future maintenance of the water system. The engineering team expressed their concerns and told her to not allow the request to happen. La Bonte spoke with both the Fire Chief and the Emergency Manager who felt that this was not a request that should be approved.

Bates, Chair Newton, and Farrow had questions regarding the placement and size of the seismic valves, as well as what effects it would have on private property. La Bonte explained that the concerns are with the accessibility of the location for repairs or replacement of failed equipment. La Bonte has offered to get further information and coordinate with the engineers to answer any questions that the committee has.

Questions to Kabeiseman regarding if there is a mechanism for the homeowner to indemnify/hold the City harmless if they had to tear down the stairs to fix the seismic valve. Chair Newton expressed his concerns regarding that process. Kabeiseman agreed. La Bonte reiterated to the group that access may need to happen for maintenance, not just in case of an emergency.

La Bonte also talked to the architect firm and asked if there are any alternatives and how catastrophic would this be to the homeowner if the City resisted this project. The architect, David Vonada stated that he thought there were some other alternatives for the homeowners to move forward.

Applicant: Jeff Taylor explained his concerns if the city is going to need that much space for the maintenance of the seismic valve. The goal of the house design was to stay within or near the current footprint of the dwelling.

Mike Morgan expressed that the porch could remain in the footprint of the current porch as seen in the aerial pictures on GIS Mapping. The retaining wall is not going away, the Geotech report showed the wall is probably holding up the city's right away. Morgan gave options of how the committee should move to approve this request with conditions. The drawing from David Vonada was submitted with this application.

Bates asked Morgan about the variance he was requesting and mentioned earlier in the presentation, is it mentioned anywhere in the application? Morgan commented that it was included in his finding, but not included in the staff report. The variance is a little over eleven feet into the setback.

Public Comment: None

No staff response.

Public Record Closed 8:15pm

Commissioner Bates requested more information from Public Works, which would give the homeowner a chance to update/complete their application to include the variance mentioned in the presentation.

The committee is requesting additional information and would like the application to be corrected with the variance of the northeast corner. Moritz would like to hear from the engineers regarding the seismic sensors and ensure we are not impinging on potential community safety. She also reminded the committee that the architect David Vonada told La Bonte that there were alternative designs, so there may be a safer alternative to have a design without a necessary setback reduction to make the house beautiful.

Chair Newton spoke to the applicant and homeowners requesting additional information including more extensive plans and submittal (application) of the variance requested to the northeast corner of the property. Newton asked if they would agree to extending the decision process. The homeowner agreed.

Kabeiseman explained details of the extension and provided clarity to the applicant that this is a decision that is entirely within the applicants control, you can request the City to make the decision within the timeline, but if you are willing to extend the 120-day deadline, that may give the Planning Commission a better chance to make a better decision. The homeowner agreed. Kabeiseman and St. Clair agreed that the extension of three weeks should be sufficient so the requested information could be included into the packet of the next planning commission meeting. Kabeiseman informed the applicant and homeowner that the agreement to the extension would need to be in writing, please submit to St. Clair stating you agree to extend the 120-day deadline by thirty days.

Motion: Commissioner Moritz moved to continue the decision to April 27, 2023. Seconded by Bates.

Vote: Commissioners Farrow, Moritz, Sinclair, Matusick, Bates and Chair Newton. All voted in favor 6:00.

Council Question:

- (5) **Public Hearing and Consideration of CU#23-01, Joseph Gaon request on behalf of Stephen and Laurel Day for a Conditional Use Permit for shoreline stabilization at 3216 Pacific St.**

CU 23-01, Joseph Gaon, on behalf of Stephen and Laurel Day, request for a Conditional Use Permit to allow for the placement of vegetated riprap for shoreline stabilization. The property is located at 3216 Pacific St in a Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards, and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

Site Visits by Commissioners Farrow, St. Clair, Bates and Moritz.

St. Clair read the staff Report.

No additional correspondence other than those by John Parrish listed in Exhibit-1.

Public Comment

Joseph Gaon
1211 SW 5th Ave Suite 1900
Portland, OR 97204

Homeowner Mrs. Day

Engineers Adam Reese (in person) and Troy Hall (via zoom)

Gaon thanked staff for a very extensive staff report. He wanted to highlight a few points to the committee, one being that this is a conditional use permit to replace the existing riprap seawall that was destroyed about ten years ago. The previous seawall was a lower priority than what is proposed, we are providing a higher priority structure that will provide a level of protection to the property.

The home was constructed was built in 1931, without any shoreline stabilization they will probably lose their property. There has been additional erosion since the pictures provided in the packets were taken. The proposals are consistent as those properties to the north and south; the stabilization will follow the existing revetment and bluff profiles. There won't be any significant loss of public beaches, there will not be any cost to the public and it will be consistent with the character of the beachfront.

Commissioner Farrow inquired about the difference in process from that of the neighbor to the north whose vegetation has failed. The engineer explained that the neighbor used a process called "burrito bags", our process will add significantly more sand for adequate growth. Newton asked why this system was chosen, Reese explained that they started at the softest options and worked their way to the best option. The other properties that are using the same option have sustained their ability to maintain shoreline stabilization. The Days are willing to do what is required to ensure the aesthetics of the project. Moritz asked if there was any way to know if the addition of the riprap would affect the surrounding properties, deflecting more erosion opportunities to other properties. Reese spoke to Moritz's concerns. Since Sinclair asked where they would be sourcing their material from, Reese said it would be as local to the area as possible. Also, how long would there need to be equipment Reese is hoping for, for two weeks.

Troy Thorsen
91594 Youngs River Road
Astoria, OR 97103

Basalt will be the type of rock that will be used, it is the same rocks that are being used in the jetties. The project timeline is greatly determined by the tides. It may take three weeks; all the materials will be coming from the quarry in Astoria. Engineering and building details of the plan were discussed in detail.

Matusick asked about OPRD regarding their approval, the applicant wanted to get through this process first before they contact the State Park System. Reese did have permission for the test pit process.

Proponents

Mike Morgan
PO Box 132
Cannon Beach, OR 97110

Morgan has been involved with many rip-rap projects, trying to satisfy the “Friends of the Dunes” with the king tides, some areas are losing 1 to 2 feet a year. If you do the wall right, like Mr. Thorsen does, it will be done right. He is fully in support of this project.

Staff support the approval with conditions as read by St. Clair.

Public Hearing closed at 9:15 pm.

Committee discussion

Commissioner Farrow believes that it is very strait forward, Chair Newton agrees, and that riprap has never been approved by the Planning Commission. Sinclair expressed his positive impression with this plan. He asked the committee why this was so difficult in the past. Moritz, spoke about the dune habitat and sand movement dynamics. Only homes built before 1977 and subdivided lot prior to that time can be approved for riprap.

Motion: Commissioner Bates moves to approve the plan with the six conditions as stated. Sinclair to second the motion.

Vote: Sinclair, Bates, Moritz, Farrow, Moritz and Chair Norton voted AYE; the motion passed 6:0.

WORK SESSION ITEMS

(6) ZO 23-01 Jeff Moon Plan Amendment & Zone Change Application at Tax lot 51032BC00400

St. Clair introduced ZO 23-01 as a work session item as it applies to our proper rules regarding the official hearing. St. Clair informed the group that the first evidence you are going to hear will be next month. This is an application from Moon’s regarding a proposed plan amendment and zone change for a property on the opposite side of highway 101 near Surfcrest. The property is currently zoned Residential Very Low Density. They are proposing to change the zoning classification to Residential Medium Density. Their purpose in doing that is to divide the property into three separate lots for residential development for family members.

(7) Wetlands Discussion

No Items to discuss tonight.

INFORMATIONAL ITEMS

(8) Tree Report

St. Clair went over the February tree numbers utilizing the Public Notice Page of the City's website.

(9) Ongoing Planning Items

St. Dennis spoke to the ongoing recruitment for the Community Development Director

(10) Good of The Order

Conversation on leading discussions and bringing a voice to issues that are important to our community.
How the committee can be involved in driving the communication of hot topics in our community.

(11) Adjournment

ADJOURNMENT

The meeting adjourned at 9:49 pm.

Emily Bare
Community Development
Administrative Assistant



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF AA#23-01, MIKE BATES ADMINISTRATIVE APPEAL OF THE CITY'S APPROVAL OF A DEVELOPMENT PERMIT, DP#23-10, FOR THE CONSTRUCTION OF A MIXED-USE BUILDING AT THE INTERSECTION OF FIRST AND SPRUCE STREETS (TAX LOT#4402, MAP 51030AA) IN A LIMITED COMMERCIAL (C1) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE.

Agenda Date: April 27, 2023

Prepared By: Robert St. Clair, Planner
Community Development Department

GENERAL INFORMATION

NOTICE

Public notice for this April 27, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on April 7, 2023;
- B. Notice was mailed on April 7, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on March 20, 2023 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1 Notice of Appeal of Administrative Decision DP#23-10, submitted March 20, 2023;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1 Development Permit DP#23-10, issued March 6, 2023;
- C-2 Design Review Board application, received January 30, 2023;
- C-3 DRB submission plan cover sheet, received January 30, 2023;
- C-4 DRB submission site plan and survey, received January 30, 2023;
- C-5 DRB submission floor plans, received January 30, 2023;
- C-6 DRB submission north and west elevations, received January 30, 2023;
- C-7 DRB submission south and east elevations, received January 30, 2023;

- C-8** DRB submission building section, received January 30, 2023;
- C-9** DRB submission landscape plan, received April 11, 2023;
- C-10** DRB submission tree plan, originally part of CU#22-03 application, dated September 21, 2022;
- C-11** Wetland delineation 2022-0212, originally part of CU#23-03 application, dated July 19, 2022;
- C-12** Staff reviewed floor plans with measurements, dated March 2023;
- C-13** Vonada floor area analysis, received March 10, 2023;

“D” Exhibits – Public Comment

- D-1** Mark Popkin, received March 29, 2023;
- D-2** David Pietka, received April 20, 2023;

SUMMARY & BACKGROUND

The appellant, Mike Bates, is appealing the administrative decision to approve a Development Permit (DP#23-10), issued on March 6, 2023, as a Type 1 land use authorization preceding the issuance of a building permit for a mixed-use development on a vacant lot at the intersection of First and Spruce Streets, Taxlot# 51030AA04402.

The City of Cannon Beach received the Notice of Appeal for an Administrative Decision on March 20, 2023, where it was stamped paid and received by the City on the same date, within the 14 consecutive day appeal period.

Mr. Bates filed an appeal of the administrative decision, base on the two arguments of the appeal which follow:

1. Failure to follow procedures set forth in CBMC 17.92.010.A.1.a and 17.92.010.C

The appellant argues that the Community Development Department has bifurcated land use issues from building issues on the grounds that it’s an approach taken by other communities and a decision-making framework that the Department plans to adopt through the upcoming code revision process. This assertion doesn’t accurately describe the Department’s decision-making process for structural development as it exists in the code, the nature of land use planning versus building permitting authorities, and the administrative framework that these authorities work under.

The appellant’s statement that the land use authorization granted by the issuance of the Type 1 permit was separated from the issuance of a building permit is correct. Procedurally this is possible as a Type 1 permit is not in and of itself a building permit. The City’s current application review process has co-mingled land use authorizations for structural development with building permits under the provisions of CBMC 17.92.010.A which states:

17.92.010 Development Permits

A. Permit Required

- 1. A development permit is required for:

 - a. The construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any structure or building which requires a building permit pursuant to either the State of Oregon, One and Two Family Dwelling Code, or the State of Oregon, Structural Specialty Code. (For the purpose of this section, these are referred to as Type 1 development permits.); or*
 - b. Any 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.)**
- 2. In the case of a structure or building requiring a building permit, the development permit may be part of the building permit.*

Subsection 2 of section A states that “the development permit may be part of the building permit.” In practice land use authorizations and building permits have been issued at the same time, however there is no requirement

to do so. Based on this language the Type 1 permit is an administrative land use decision that applies to projects requiring a building permit and not a building permit itself. Additionally, it can be issued separately from a building permit. Building permits themselves are not reviewed under the provisions of Title 17, rather those are reviewed through the provisions of Title 15, Buildings and Construction, which adopts Oregon state building codes. This approach, where a land use decision is clearly distinct and separate from a building permit, is typical for jurisdictions outside of Cannon Beach and is a process the Department wishes to see clarified and formalized through the code revision process.

The appellant additionally argues that insufficient information has been provided by the applicant of DP#23-10 for the Department to make a decision. In conjunction with the development permit application the applicant submitted an application for review by the Design Review Board (DRB) which included a site plan, floor plan, elevations, and a landscaping plan that are sufficient for the DRB to conduct its review and largely sufficient for the Department to process a Type 1 application. Additional information, such as a wetland delineation, was re-used from the application materials for Conditional Use CU#22-03. This was permissible as the property and applicant for DP#23-10 and CU#23-02 are the same.

The criteria being reviewed by Department staff for a Type 1 permit include the following:

- Architectural minimum standards as defined in 17.90.065, Architectural Design Elements. This is also reviewed by the Design Review Board as applicable.
- Lot coverage and floor area ratio requirements as described in the subject property's zoning classification standards. The C1 zoning district does not have lot coverage restrictions, it does have a floor area ratio restriction of 0.7 for structures built after June 1, 1995. The project's square footage as described in DP#23-10 is 9,110 square feet on a 18,402 square foot lot making for a floor area ratio of 0.49.
- Other zoning standards such as setbacks and building height. The C1 zoning district does not have required yards except when a lot is abutting a residentially zoned property. This property does not abut a, R1, R2, R3, or MP zone. Building height is restricted to 28 feet above existing grade for structures with a peaked roof of 5/12 or greater. This project does not exceed that height limitation as per plans submitted for review by the DRB.
- Inclusion of a tree site plan. The tree site plan from CU#22-03 was reused for this project as they are similar in footprint. This plan has been reviewed by the City Arborist as part of the DRB application and is part of the larger landscaping requirements being reviewed by that board.
- Provision of an adequate amount of off-street parking. This involves a review of the provided site plan and the provisions of CBMC 17.78. DP#23-10 found that the requirement to provide one space per 400 square feet of retail or other commercial space and one space per residence in a mixed-use building where the residential space is less than 50% of the building area to be satisfied by the parking plan provided.
- Applicability of floodplain requirements. This property is not within a regulated floodplain.
- Applicability of geologic hazard requirements. This property does not have a parcel average slope in excess of 20% and is not in the Oceanfront Management overlay zone.
- Applicability of wetland protection requirements. The property is a wetland affected taxlot and a delineation less than 5 years old was re-used from the CU#22-03 application materials. The site plan shows that the building is in compliance with existing requirements for a 5-foot setback from the delineated wetland.
- Applicability of stream protection requirements. This property is not affected by an inventoried stream.
- Applicability of oceanfront requirements. This property is not within the Oceanfront Management overlay zone.

The materials provided by the applicant were sufficient for planning staff to complete the review for a Type 1 permit.

The appellant additionally argues that the application was insufficient to verify that the residential use does not exceed 50% of the building's floor area and that calculations made regarding the amount of residential floor area rely on a "questionable allocation of common space." DP#23-10 describes the structure as a 9,110 square foot building with 4,560 square feet as office or retail and 4,550 square feet as residential. While close to an even 50% distribution of retail and residential, the amount of residential space does not exceed the threshold where a conditional use permit would be required. After issuance of the permit, at the request of interested members of the public including the appellant, Department staff measured the provided floor plans and calculated 4,680 square feet (51%) as non-residential and 4,469 square feet (49%) as residential. The non-residential common space that the appellant describes as questionable include 168 square feet of utility space housing electrical and fire suppression equipment and 169 square feet for stairs and a common hallway used to access the second story of the building which includes a non-residential office space. Neither of these areas is strictly residential or part of a living unit and are counted as non-residential space as a result.

2. Failure to enforce the requirements set forth in CBMC 17.22.050.A

The appellant argues that the Department failed to adequately enforce the provisions of CBMC 17.22.050.A – Standards, Limited Commercial (C1) Zone. The provision in question states:

17.22.050 Standards

In a C1 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

- A. Lot Size. Non, except that the density of multifamily dwellings shall be five thousand square feet for the first unit of a the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term residential purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77; and where the maximum density of assisted living facilities shall be one residential unit per one thousand square feet of site area.*

DP#23-10 finds that there are five residential units in the proposed development. The first of these will require a lot area of 5,000 square feet and each of the remaining four will require an additional lot area 2,500 square feet each. In order to meet the density requirement, the minimum size lot that could permit the density level of this development is 15,000 square feet and the subject property is 18,402 as per the description in the permit.

The appellant goes on to state that "net density," as defined by CMBC 17.04.135, requires the subtraction of the square footage of a lot the portion "used for private streets and common driveways." They then argue that the density calculations failed to make this subtraction. However, no features that meet the definition of "private streets or common driveways" are present on the subject property. CBMC 16.04.050 defines streets as:

"Street" means a public or private way that is created to provide ingress or egress to one or more lots, parcels, areas or tracts of land.

The off-street parking area serving the property is directly accessed from First St. and no vehicle travel pathway is required to connect the parking area to the ingress/egress point on First St. The term "common driveway" is not defined in the Municipal Code. Off-street parking requirements defined in CBMC 17.78 do not define parking lots or the aisles within them as streets or common driveways.

APPLICABLE CRITERIA

17.88.160 Scope of Review.

- A. An appeal of a permit or development permit shall be heard as a de novo hearing.

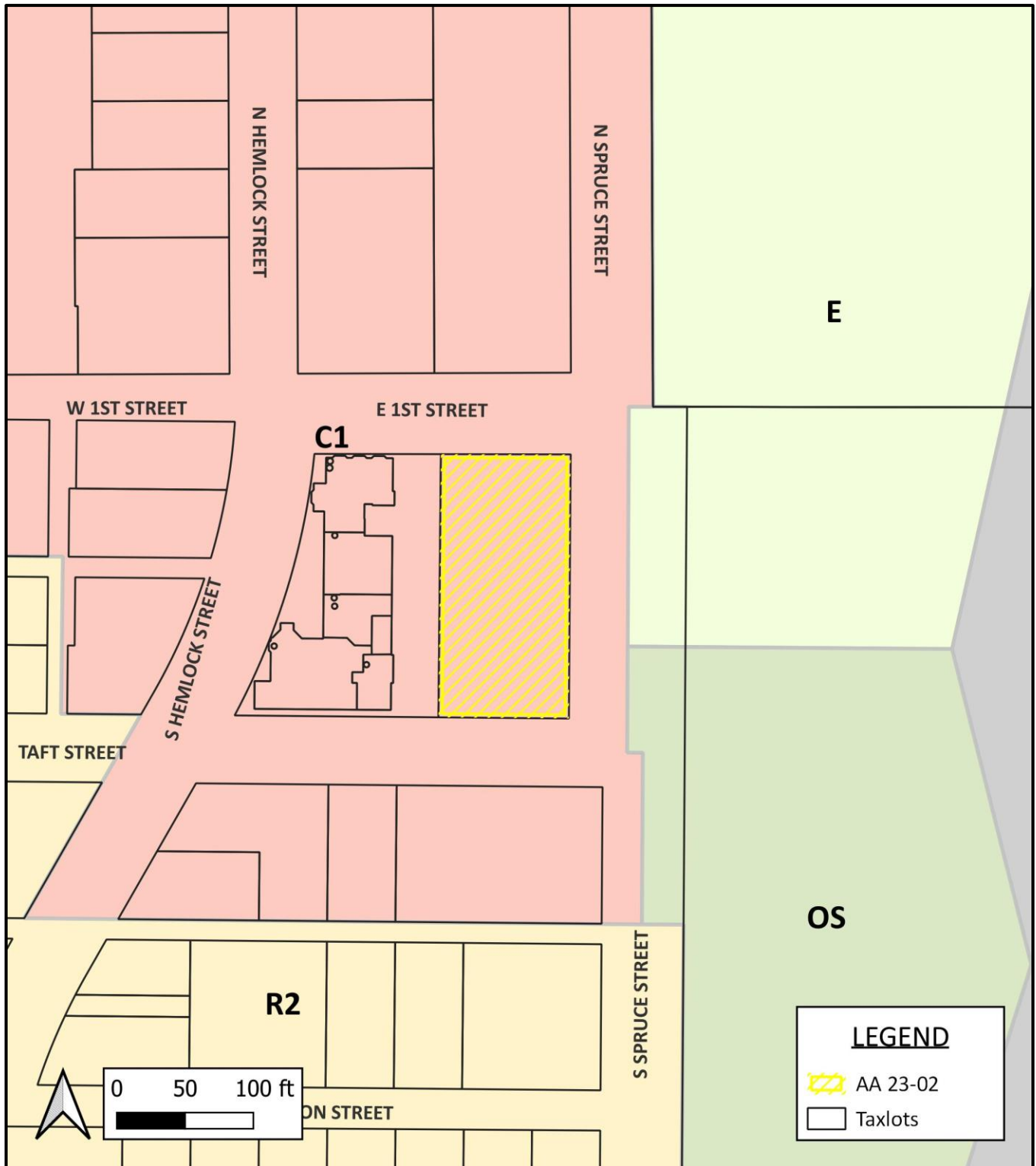
17.88.180 Review Consisting of Additional Evidence or De Novo Review.

- A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:
 - 1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
 - 2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
 - 3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Sections 17.88.010 through 17.88.100.
- C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.084))

DECISION AND CONDITIONS

Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moved to tentatively (affirm, reverse, or modify in whole or part) the administrative decision to approve Development Permit DP#23-10, with regards to the Bates appeal, AA#23-02, as discussed and requests that staff draft findings for review and adoption, at a special called meeting, Thursday May 4, 2023, at 6:00pm at City Hall.

Site Map: AA#23-02, Intersection of First & Spruce Streets





CITY OF CANNON BEACH

City of Cannon Beach
Finance Department

MAR 20 2023

Received

NOTICE OF APPEAL - ADMINISTRATIVE DECISION

Appellant's Name: Mike Bates
 Email Address: mike.bates57@hotmail.com
 Mailing Address: 1741 Forest Lawn Road
P.O Box 820
Cannon Beach, Oregon, 97110-0820
 Telephone: (503) 440 - 1330

1. Appeal of Administrative Decision by Robert St. Clair, regarding:
Mixed-use development, at Tax lot# 51030AA04402, in the C1 Limited Commercial zone.

as stated in letter dated March 6, 2023.

2. Specific grounds relied upon for the appeal, including any Zoning Ordinance criteria or standards that you consider to be relevant:

1. Failure to follow procedures set forth in CBMC 17.92.010.A.1.a and -92.010C; and
2. Failure to enforce the requirements set forth in CBMC 17.22.050A.

Please attach additional pages, if needed, and any other relevant information.

FEE: \$600.00

Appellant Signature: [Signature] Date: March 20, 2023

For Staff Use Only:

City of Cannon Beach
Finance Department

Date Appeal Received: 3/20/23 By: [Signature]
 Appeal Fee Paid: \$600 Receipt No.: MAR 20 2023

PAID

Fee:
 803 - Planning \$600
 (Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050
www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us

Notice of Administrative Appeal

Mixed-use development, at Tax lot# 51030AA04402, in the C1 Limited Commercial zone.

March, 6, 2023

1. Failure to follow procedures for issuance of a development permit set forth in CBMC 17.92.010.A.1.a and -92.010C;

Community Development has decided to bifurcate land use issues from the building issues. "It's what other communities do, and it's where we want to end up with the code audit." However, as the code audit will not be completed for more than a year still, the community lacks protections contemplated in discussion of the bifurcated process that would restrict the discretion of the permitting authority auto form-based decisions. As a result, the application lacks the information necessary to determine whether the permitting authority abused its discretion under the code as presently written.

Section 17.92.010.A.1.a reserves the issuance of a Type 1 development permit to "construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any structure or building." Section 17.92.010.C authorizes "[t]he building official" to issue a development permit when the "work described in an application . . . and the plans, specifications, and other data filed with the application conform to the requirements of this title, and any conditions imposed by a reviewing authority."

The plans, specifications, and other data submitted in support of this application have been limited to three site drawings, and a couple of building elevations. None of this material has been sufficient to enable anyone, much less members of the general public, to determine whether the project conforms to the standards set forth for a mixed-use, multi-dwelling structure constructed in a Commercial Limited, C-1, zone.

For example, the application is insufficient to verify with certainty that "residential use does not exceed fifty percent of the building's floor area," per 17.22.010.K. The deficiency has resulted in at least four different calculations, all of them completed after the permit was approved, the most recent placing the ratio right at 50 percent based upon a questionable allocation of common space.

In addition, the application is insufficient to determine whether "the density of multi-family dwelling . . . [is] five thousand square feet for the first unit . . . plus two thousand five hundred square feet for each additional unit," per 17.22.050.A. This is a critical consideration given our community's interest in accessible dwelling units. The code contains exception to the density requirement if the multi-family dwellings are "used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement."

2. Failure to enforce the requirements set forth in CBMC 17.22.050.A

Notice of Administrative Appeal

Mixed-use development, at Tax lot# 51030AA04402, in the C1 Limited Commercial zone.

March, 6, 2023

Staff has taken the position that the density requirement of Section 17.22.050.A is limited to residential structures, something like the apartment block, not mixed-use residential/commercial structures applicant has proposed. In addition, staff has argued that the density requirement must be measure against total lot square footage. Even if 17.22.050.A applies, staff asserts, required density for five units would be 15,000 (17,500 in the staff report) square feet against a total lot size of 18,360 square feet, as measured in the community's GIS map.

Staff's position fails to account for defined terms embedded in the section, which reads in part:

- A. Lot Size. None, except that the density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use.

The term "multi-family dwelling" is defined in Section 17.04.190 as "a building or portion thereof, designed for occupancy by three or more families living independently of each other." There is no exception for mixed-use properties. In fact, the definition contemplates mixed use by its very terms, "a building or portion thereof."

The term "Net density" is defined in Section 17.04.135 as "the number of dwelling units per unit of land expressed as the number of square feet of land per dwelling unit." Net density is calculated as the ratio of the total square footage of a parcel, minus square footage "used for private streets and common driveways," divided by the number of dwelling units.

"Net density" is the only definition related to "density" appearing anywhere in the code, and it's only used once in that formulation, Title 16.04, Subdivisions, as a column head to set forth maximum dwellings per acre of land for a new subdivision. When the term density is used in connection Title 17, and it happens dozens of times across the entire ordinance, the formulation is density per net acre, not net density, and the frequency of usage makes it clear that the definition of density was intended to be the same across the community. The permitting authority should not impose an alternative standard for "density" without a clear expression of intent in that a different standard applies in a Commercial LimitedC1 zone and/or a compelling argument that the alternative standard meets the intent of the zoning code..

Applying the formula to Title 17.22.050, the density of the parcel in question, the net square footage would be 18,360 square feet, minus square footage used with private streets and common driveways planned for the development. Since the information needed to calculate the square footage dedicated to private streets and common driveways was not supplied by applicant, the permitting authority exceed its authority in granting a development.



City of Cannon Beach
163 E Gower St | PO Box 368
Cannon Beach, OR 97110
(503) 436-1581
cityhall@ci.cannonbeach.or.us

XBP Confirmation Number: 140585056

▶ Transaction detail for payment to City of Cannon Beach.			Date: 03/20/2023 - 5:15:52 PM MT
Transaction Number: 194985674			
Visa — XXXX-XXXX-XXXX-2127			
Status: Successful			
Account #	Item	Quantity	Item Amount
Appeal Form - Mike B	Planning Fees	1	\$600.00

TOTAL: \$600.00

Billing Information
JAY BATES
, 97110

Transaction taken by: Admin Front



BEFORE THE CITY OF CANNON BEACH

IN THE MATTER OF A DEVELOPMENT)	FINDINGS OF FACT,
PERMIT FOR TAXLOT# <u>51030AA04402</u>)	CONCLUSIONS, AND
FOR CONSTRUCTION OF A MIXED-USE DEVELOPMENT)	ORDER DP# 23-10
IN CONJUNCTION WITH A BUILDING PERMIT)	


IN ZONE: C1

APPLICANT: David Vonada
PO Box 563
Cannon Beach, OR 97110

The above-named applicant applied to the City for review and approval of a type I development permit in conjunction with a building permit (164-22-000264 DWL) for the development of a mixed-use development under the provisions of Chapter 17.92.010 of the Cannon Beach Municipal Code. The Community Development Department considered the above entitled matter and approved, with conditions, the development permit on March 6, 2023. 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: March 6, 2023



Robert St. Clair
Planner



Attachment “A”

FINDINGS OF FACT

DAVIDSPRUCE LLC – DP#23-10

PROPERTY DESCRIPTION: Taxlot# 51030AA04402

PROPERTY LOCATION: Unaddressed

SUMMARY: Applicant, David Vonada, on behalf of Davidspruce LLC, is requesting to construct a mixed-use development, at Tax lot# 51030AA04402, in the C1 Limited Commercial zone. The development permit conditionally authorizes the development of the mixed-use structure for the property.

The First & Spruce Mixed-Use Development is a 9,110 square foot (SF) office/retail and residential structure on a 18,402 SF lot in the downtown, C1 Limited Commercial zone. The property is also a wetland lot of record, which has had a recent, state-approved, wetlands delineation, by Critical Areas Consulting, dated July 19, 2022.

The property has also submitted a tree plan for the removal of 14 trees and the retention of 23 trees, by Todd Prager & Associates, LLC, dated September 21, 2022. A Geotechnical Investigation Report, was provided March 31, 2022 and revised April 18, 2022.

The project is comprised of three second floor residential apartments, two two-story townhouses and 4,560 SF of office and retail space.

CRITERIA:

Chapter 17.43 WETLANDS OVERLAY (WO) ZONE

17.43.010 Purpose.

The purpose of the wetlands overlay zone is to protect wetland areas identified in the city’s comprehensive plan from uses and activities that are inconsistent with the maintenance of the wetland functions and values identified for those sites. (Ord. 94-29 § 2)

17.43.020 Mapping.

A. The maps delineating the WO zone boundaries shall be maintained and updated as necessary by the city. The Cannon Beach Local Wetland Inventory maps dated September 20, 1994, shall form the basis for the location of wetlands. The WO zone includes both wetland and wetland buffer areas which abut wetlands. The wetland buffer area has a width of five feet measured from the outer boundaries of the wetland.

B. Site-specific wetland delineations or determinations are required to determine the exact location of the WO zone boundary. Wetland determinations and delineations shall be conducted in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual along with any supporting technical or guidance

Cannon Beach Community Development | Development Permit# 23-10



documents issued by the Division of State Lands and applicable guidance issued by the U.S. Army Corps of Engineers for the area in which the wetlands are located.

C. Where a wetland delineation or determination is prepared, the mapping it contains shall replace that of the Cannon Beach Local Wetland Inventory. Wetland delineations or determinations shall remain valid for a period of not more than five years from the date of their acceptance by the Division of State Lands.

D. The continued reliance on a wetland delineation or determination that is more than five years old requires the following additional new information:

1. An onsite re-inspection of the site by a qualified individual to determine if there has been any change in circumstances;
2. If no change in circumstances is found, a short report noting or including:
 - a. A description of site conditions and any changes between the date of the original wetland determination or delineation and the date of the re-inspection,
 - b. Any additional maps, aerial photographs or other documents consulted, and
 - c. Conclusions regarding the accuracy of the original wetland delineation or determination;
3. If a change in circumstances is noted, the information in subsection (D)(2) of this section shall be provided along with:
 - a. Additional field data, including wetland determination data in conformance with Division of State Lands standards needed to verify and document any change in the status of the wetland area that were or were not identified and mapped as part of the original delineation or determination,
 - b. A revised wetland map,
 - c. Data, documentation, and other information as needed to establish the nature and timing of the activity or activities that resulted in the change in circumstances.

E. Protected wetlands that are legally filled under this chapter are no longer protected wetlands, but remain as wetland buffer areas under this overlay zone. Wetland buffer areas that are legally filled under this chapter remain as wetland buffer areas. (Ord. 08-1 § 40; Ord. 94-29 § 2)

17.43.025 Wetland lot-of-record.

A wetland lot-of-record is a lot or contiguous lots held in common ownership on August 4, 1993, that are subject to the provisions of this chapter. A wetland lot-of-record includes upland portions of the contiguous property that are not subject to the provisions of the wetlands overlay zone. "Contiguous" means lots that have a common boundary, and includes lots separated by public streets. A lot-of-record is subject to the provisions of this overlay zone if all or a portion of the lot is in the overlay zone. The objective of the wetland lot-of-record provision is to permit a property owner a minimum of one dwelling unit on a wetland lot-of-record. A dwelling can be constructed on the wetland portion of a wetland lot-of-record only where there are no upland portions of the wetland lot-of-record that can accommodate a dwelling. The following examples illustrate how the wetland lot-of-record provisions of Section 17.43.030A and Section 17.43.035A are to be applied.

FINDING: The property is a wetland lot of record and had a wetland delineation conducted by Critical Areas Consulting, dated July 19, 2022. A letter of concurrence was provided by Peter Ryan, SPWS, Aquatic Resource



Specialist, Oregon Department of State Lands, WD# 2022-0212, dated July 19, 2022. The project remains in the upland portion of the site. Erosion control conforming to CBMC 17.62.050 and tree protection fencing conforming to CBMC 17.70.030, along the Wetland Overlay Zone buffer, will be required as a condition of approval before land disturbance.

Chapter 17.22 LIMITED COMMERCIAL (C1) ZONE

17.22.020 Uses permitted outright.

In a C 1 zone the following uses and their accessory uses are permitted outright:

- A. Retail trade establishment, such as a food store, drug store, gift shop, variety or appliance store;
- B. Repair and maintenance service of the type of goods to be found in the above permitted retail trade establishment, provided such service is performed within an enclosed building;
- C. Arts and crafts gallery and studio;
- D. Business or professional office;
- E. Garden store;
- F. Financial institution;
- G. Eating and drinking establishment, except those prohibited by Section [17.22.040](#);
- H. Personal business service, including, but not limited to, barber shop, tailoring, printing, laundry and dry cleaning, or other service establishment;
- I. Theater, but not including a drive-in;
- J. Wholesale business in conjunction with a retail trade establishment on the same premises;
- K. A residential use in conjunction with a permitted use where the residential use does not exceed fifty percent of the building's floor area;

FINDING: Cannon Beach Municipal Code (CBMC) 17.22.020(K) permits outright residential use in conjunction with a permitted use where the residential use does not exceed fifty percent of the building's floor area. The 4,550 SF of residential accounts for 49.9% of the permitted uses. Meets criteria.

17.22.050 Standards.

In a C1 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter [17.44](#):

A. Lot Size. None, except that the density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter [17.77](#); and the maximum density of assisted living facilities shall be one residential unit per one thousand square feet of site area.

B. Lot Dimension.

- 1. Lot Width and Depth. None.
- 2. Yards. None, except where a lot is adjacent to an R1, R2, R3, or MP zone, the same yard as in the abutting residential zone shall apply.
- 3. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section [17.42.050\(A\)\(6\)](#), Oceanfront setback.

C. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a



mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

D. Signs. As allowed by Chapter [17.56](#).

E. Parking. As required by Section [17.78.020](#). The required off-street parking spaces can be provided anywhere within the downtown commercial district, as identified in Figure 1 (at the end of this chapter).

F. Design Review. Design review requirements of Chapter [17.44](#) shall be met.

G. Geologic or Soils Engineering Study. As required by Chapter [17.50](#).

H. Outdoor Merchandising. As allowed by Section [17.90.150](#).

I. A minimum landscaping border of three feet shall be provided between the sidewalk and the frontage of all buildings facing the street. The planning commission may grant exceptions to this standard for doors and entries to buildings or where a combination of seating and landscaping is provided. Such landscaping may be part of the required landscaping specified in Section [17.44.120](#).

J. Floor Area Ratio. The floor area ratio for buildings located in the downtown commercial district, as identified in Figure 1 (at the end of this chapter) shall not exceed .7, except that buildings existing as of June 1, 1995, which exceed a floor area ratio of .7, may be replaced with a building(s) with a floor area ratio equivalent to that which existed on June 1, 1995.

K. Vehicular Access. In the downtown commercial district, as identified in Figure 1 (at the end of this chapter), no new vehicular access onto Hemlock Street shall be permitted. Vehicular access which existed as of July 6, 1995 may continue to be utilized, including modifications thereto.

L. Claims for Compensation Under ORS 197.352. The standards of Sections [17.08.040](#)(A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352.

FINDING: The five residential units require five-thousand square feet for the first unit and two-thousand five hundred square feet for each additional unit, accounting for 17,500 SF, with no lot size dimensional requirements for the retail or office uses, per CBMC 17.22.050(A).

The property requires no dimensional requirements, as it does not abut a residentially zoned district or the ocean shore. Building height is limited to 24' from existing grade, per CBMC 17.22.050(C) and any signage must meet the requirements of chapter 17.56. The Development Permit will be conditioned upon the approval of the Design Review Board, according to the requirements of Chapter 17.44.

The applicant has attached the Geo-Technical Investigation and shall supply any need updates to meet building requirements upon condition of approval. A three-foot landscape buffer between building and street is provided, per CBMC 17.22.050(I), while landscape plan will be a condition of approval. The City of Cannon requires ten percent of the property to be in soft-scape landscaping, where the project provides 5,379 SF, or 29%. Chapter 17.44, which will also be subject to Design Review, requires twenty percent of the property to be landscaped, including hard and soft-scaping, where the project provides 6,564 SF, or 36%, meeting criteria.

The Floor Area Ratio of downtown properties is .7, or 12,881 SF. The proposed 9,110 SF mixed-use structure meets criteria. Proposed vehicular access, via First St., also meets criteria.

Chapter 17.78 OFF-STREET PARKING

17.78.010 Requirements generally.



The following general provisions shall govern the application of off-street parking requirements:

A. The provision and maintenance of off-street parking is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking. The subsequent use of property for which the building permit is issued is conditional upon the unqualified continuance and availability of the amount of off-street parking required by this chapter. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing required off-street parking, it shall be a violation of this chapter to begin or maintain such altered use until the required increase in off-street parking is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless evidence is presented to the satisfaction of the city that the various uses will not be used simultaneously, thus not requiring that the required amount of off-street parking be the sum of the requirements of the several uses. Where the city determines that various uses will not be used simultaneously, the city shall determine the amount of off-street parking to be provided.

D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking area where the amount of the off-street parking provided in such a joint use parking area is the sum of the required off-street parking for those several uses and where a deed restriction or covenant for the shared parking between the cooperating property owners is recorded with Clatsop County. The deed restriction or covenant shall be approved by the city and shall contain a provision that it cannot be modified or revoked without the approval of the city.

E. Off-street parking spaces for one or two-family dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located no farther than two hundred feet from the building or use they are required to serve measured in a straight line from the building, except that in the downtown commercial area the provisions of Section [17.22.050](#)(E) apply. For uses where parking is permitted within two hundred feet of the intended use, the parking must be located in a zone which permits the use for which the parking is to be provided.

F. Required parking spaces shall be available for the parking of passenger vehicles of residents, customers and employees of the use and shall not be used for storage of vehicles or materials.

G. A plan drawn to scale, indicating how the off-street parking requirements are to be met shall accompany an application for a building permit.

H. It is unlawful to charge a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirements specified in Sections [17.78.020](#) and [17.22.050](#)(J)(1). Where such a fee was charged prior to the effective date of Ordinance 97-12, an amortization period of four months, from the effective date of Ordinance 97-25, is established. At the conclusion of the amortization period, charging a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirement specified in Sections [17.78.020](#) and [17.22.050](#) (J)(1) shall be prohibited whether or not a fee was charged prior to the adoption of Ordinance 97-12.

17.78.020 Off-street parking requirements.

A. At the time a structure is erected or enlarged or the use of a structure or parcel of land changes, off-street parking spaces shall be provided in accordance with this section and Sections [17.78.010](#), [17.78.030](#) and [17.78.040](#).

B. If parking space has been provided in connection with an existing use, the parking space shall not be



eliminated if it would result in less than is required by this section.

C. Where square feet are specified, the area measured shall be gross floor area, where gross floor area means the sum of the gross horizontal area of all floors of a building, as measured from the exterior walls of a building. Where employees are specified, persons counted shall be those working on the premises including the proprietors, during the largest shift at a peak season.

D. In determining the number of parking spaces required by this section, all fractions 0.5 or greater shall be rounded to the nearest whole number. (Example, if it is determined that 5.65 parking spaces are required, six off-street parking spaces must be provided. If it is determined that 5.25 parking spaces are required, five off-street parking spaces must be provided.)

Use

Parking spaces required

Retail and office

Downtown

- a. For structures existing as of July 6, 1995, existing off-street parking spaces which were required to meet the off-street parking requirement (1.5 parking spaces per four hundred square feet of gross floor area), as per Ordinance 88-6, shall be retained;
- b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of one parking space per four hundred square feet of gross floor area;
- c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of July 6, 1995, one parking space per four hundred square feet of gross floor area shall be required;
- d. At the time an existing structure, which was not used for commercial purposes as of July 6, 1995, is converted to retail or office use, one parking space per four hundred square feet of gross floor area shall be required.

Midtown and Tolovana Park

- a. For structures existing as of December 2, 2004, existing off-street parking spaces, which were required to meet the use's off-street parking requirement (1.5 parking spaces per four hundred square feet of gross floor area), as per Ordinance 88-6, shall be retained;
- b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required



Use

Parking spaces required

for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of one parking space per four hundred square feet of gross floor area;

c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of December 2, 2004, one parking space per four hundred square feet of gross floor area shall be required;

d. At the time an existing structure, which was not used for commercial purposes as of December 2, 2004, is converted to retail or office use, one parking space per four hundred square feet of gross floor area shall be required.

Motels and hotels

1-1/4 per unit and 2 for a manager's unit; 1 for each unit of 400 sq. ft. or less, as long as that unit has only 1 bedroom

Recreational vehicle park and campground

1 per employee

Residences

a. Single-family dwelling, two-family dwelling and multiple family dwelling in condominium ownership: 2 per dwelling unit, except that 1 per dwelling unit is required for residences that are provided in conjunction with a commercial use where those residences constitute no more than 50% of the building area.

b. Multiple-family dwellings in other than condominium ownership:

Studio	1 per dwelling unit
1 bedroom	1.25 per dwelling unit
2 bedroom	1.5 per dwelling unit
3 or more bedrooms	2 per dwelling unit

Group housing

1 per sleeping room

Assisted living

1 per 2 residential units

Schools, elementary

1 per employee or teacher



Use	Parking spaces required
Restaurants, bar, or lounge	<p>Downtown 1.5 parking spaces per four hundred square feet of gross floor, except that one parking space per four hundred square feet of gross floor area shall be required for: (1) additions to a restaurant, bar or lounge after July 6, 1995; or (2) a restaurant, bar or lounge on a parcel of land which did not contain a commercial use as of July 6, 1995; or (3) a restaurant, bar or lounge in a structure which was not used for commercial purposes as of July 6, 1995.</p> <p>Midtown 1.5 parking spaces per four hundred square feet of gross floor area shall be required.</p> <p>Tolovana Park 1.5 parking spaces per four hundred square feet of gross floor area shall be required.</p>
Meeting rooms	One parking space per one hundred square feet of gross floor area shall be required.
Limited manufacturing	1 per employee at the maximum shift.
Transient rental, vacation home rental	Per Section 17.77.040 (A)(2)(e).
Similar uses or aggregate	To be evaluated on a case-by-case basis based on above standards.

A. The following design requirements shall apply to an off-street parking area consisting of five or more parking spaces:

1. Parking area layouts shall provide parking spaces and aisle dimensions that meet the minimum dimensions contained in Figure A, Minimum Design Requirements.
2. A parking space must be at least nine feet by eighteen feet. Where parallel parking spaces are provided, the minimum dimension is nine feet by twenty-two feet.
3. Parking spaces for disabled persons shall be in accordance with the requirements of the Oregon Structural Specialty Code. These standards control: dimensions of disabled person parking spaces and access aisles; the minimum number of disabled person parking spaces required; location of disabled person parking spaces and circulation routes; curb cuts and ramps including slope, width and location; and signage and pavement markings.
4. All parking areas must be designed so that a vehicle may enter or exit without having to move another vehicle. Stacked or tandem parking is not permitted.
5. At a minimum, ten percent of the area of the parking lot shall be landscaped. In determining the area of the parking lot and required landscaping the minimum area separation between the building and the parking lot described in subsection (A)(6) of this section shall not be included. The landscaped area of the parking lot shall contain at least one tree for every one hundred seventy-five square feet of landscaping provided. Areas that contain a tree shall have a minimum width of five feet. Any landscaped area shall have a minimum area of



fifty square feet.

6. An area with a minimum width of five feet shall separate the exterior wall of a building from the parking lot. The separation between the parking lot and the building can consist of landscaping material, a pedestrian walkway, or a combination of the two.

7. Provide separation and screening of the parking area from the street and abutting property. The separation can be provided by either a fence or a landscaped planting area. Where landscaping is utilized, the planting area shall have a minimum width of three feet. The height of the fence or planting shall be sufficient to screen the parking facility, but without encroaching into the required clear vision area.

8. When a parking area serving a multifamily, commercial, industrial or governmental use abuts a residential zone, buffering meeting the requirements of Chapter [17.66](#) shall be provided.

9. The number of access points from the adjacent public street(s) to the parking area shall be limited to the minimum that will allow the property to accommodate the anticipated traffic. Access points shall be located on side streets or existing driveways wherever possible so as to avoid congestion of arterial or collector streets. The width of the access point(s) to the parking area shall comply with the standards of Municipal Code Section [12.08.040](#).

10. Maneuvering space (to prevent backing onto streets) shall be provided for all lots which provide access onto arterial streets (Hemlock Street, Sunset Boulevard, and US Highway 101).

11. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen feet from their intersection.

B. Areas for required off-street parking consisting of fewer than five parking spaces, which serve uses other than single-family dwellings, modular housing, manufactured homes, duplexes or triplexes, shall comply with the standards of Section [17.78.030](#)(A)(1)—(4), (7), (9)—(11).

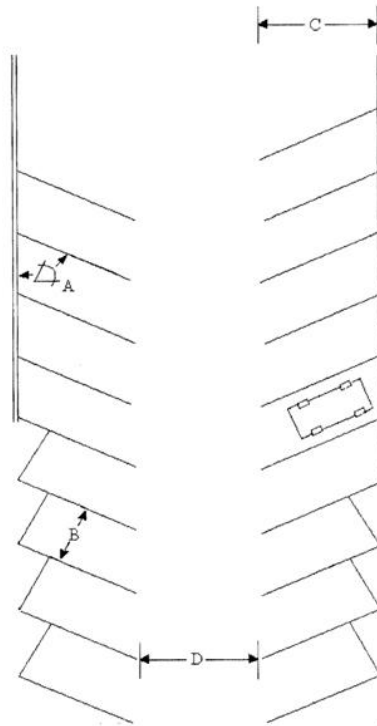
C. Areas for required off-street parking associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes and limited triplexes, shall comply with the standards of Section [17.78.030](#)(A)(2), (9), (10).

Parking Minimum Design Requirements

Parking Angle	Standards			
	Minimum Stall Width	Minimum Stall Depth	Minimum Aisle Width	
			One-way	Two-way
0°	22'0"	9'0"	10'10"	18'0"
30°	9'	17'0"	12'0"	20'0"
45°	9'	17'4"	12'3"	20'0"
60°	9'	18'10"	14'4"	20'0"
70°	9'	19'2"	16'0"	21'6"
90°	9'	18'	22'6"	22'6"
A	B	C	D	D



- A. Parking Angle
- B. Stall Width
- C. Stall Depth
- D. Aisle Width



17.78.040 Improvement standards.

A. The following improvement standards shall apply to off-street parking areas, except for those associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes and limited triplexes:

1. The surface material shall be an approved hard surface such as asphalt, concrete, or pavers.
2. The parking lot shall be clearly marked as to parking stalls, traffic flow and handicapped spaces.
3. Wheel stops shall be provided for each parking space.
4. Planting areas shall be defined by the use of curbing or other approved material.
5. A stormwater runoff system approved by the public works department shall be installed.
6. No pole mounted lighting shall exceed a height of fifteen feet. All lighting shall be shielded so that direct illumination is confined to the property boundaries of the light source. (Ord. 08-1 § 51)

FINDING: The application requires one parking space for every 400 SF of retail space, where 4,645 SF of retail requires 12 parking spaces; the applicant states that one and a quarter spaces are required for each of the three one-bedroom apartments, equating to four required spaces; one and half spaces are required for each of the two two-bedroom units, accounting for a required three spaces, or a total of nineteen spaces, where they have provided twenty. However, CBMC 17.78.020 states that “2 per dwelling unit, except that 1 per dwelling unit is required for residences that are provided in conjunction with a commercial use where those residences constitute no more than 50% of the building area,” so that only five spaces would be required for the residential portion, or seventeen total spaces. It should be noted that if any of these units are converted to condominium and individual ownership, they would then need be required to provide the spaces defined above and would be required to provide and record a condominium plat with the County per ORS 100.115.



Either way, criteria are met.

All parking are improved hard surface asphalt, concrete or of pavers, marked, with adequate stall width and depth. Wheel stops shall be provided for each space, the landscaped areas provide at least ten percent of the parking area, while the five-foot setback from buildings have been met. Access and maneuverings show that at least 24-feet of aisle area for the 90-degree parking stalls exceed the required twenty-two and half feet required and the ADA stall meets criteria. Bike parking and other outdoor site furniture, including lighting features, will be conditioned upon DRB approval, along with the stormwater runoff system.

Chapter 17.92 ADMINISTRATIVE PROVISIONS

17.92.010 Development permits.

A. Permit Required.

1. A development permit is required for:

a. The construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any structure or building which requires a building permit pursuant to either the State of Oregon, One and Two Family Dwelling Code, or the State of Oregon, Structural Specialty Code. (For the purpose of this section, these are referred to as Type 1 development permits.); or

b. 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.)

2. In the case of a structure or building requiring a building permit, the development permit may be part of the building permit.

B. Application. A property owner or their designated representative may initiate a request for a development permit by filing an application with the city using forms provided by the city.

C. Administrative Review of Development Permits.

1. Administrative Review of Type 1 Development Permits. The building official shall issue a development permit to the applicant if the building official finds that the work described in an application for a development permit and the plans, specifications, and other data filed with the application conform to the requirements of this title, and any conditions imposed by a reviewing authority. A decision of the building official may be appealed to the planning commission in accordance with Section 17.88.140.

FINDING: The development conditionally approves a multi-use commercial-residential development on the upland portion of the wetland lot of record.

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:

CONDITIONS

1. Design Review Board approval per CBMC 17.54.080 and 17.44 prior to building permit, including site, architectural and landscape (with exterior lighting) plans.



2. A Tree Protection Zone fencing shall be in place, as indicated on plans, meeting City Arborist approval prior to building permit.
3. Stormwater drainage plans approved by the Public Works Director.
4. Cannon Beach Building Permit approved by the Cannon Beach Building Official according to Title 15 of the Cannon Beach Municipal Code and the Oregon Structural Specialty Code and all other applicable State and Federal Codes.
5. Surveyed elevation points at time of structural inspection, conforming to CBMC 17.90.070 and 17.10.040(E).
6. Erosion control fencing, in place, to Public Works Department standards, along wetland buffer delineation, prior to building permit.
7. Exposed sloped areas steeper than 3 horizontal-to-1 vertical should be protected with a straw erosion control blanket (North American Green S150, or equivalent) to provide erosion protection until permanent vegetation can be established. Erosion control blankets should be installed as per the manufacturer's recommendations;
8. The use of motorized equipment shall be limited to the hours between 7:00 AM and 7:00 PM per Municipal Code Section 8.18.040(F);



CITY OF CANNON BEACH

DEVELOPMENT PERMIT TYPE 2 APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: DAVID VONADA
Mailing Address: P.O. BOX 1162
Cannon Beach, Or. 97110
Email Address: david@tolovanaarchitects.com
Telephone: 503.436.0519

Property-Owner Name: David Pietke c/o DAVIDSPRICE LLC
(if other than applicant)

Mailing Address: 2514 N.E. Grant Pl.
Portland, Or. 97212

Telephone:

Property Location: FIRST & SPRUCE STREETS
(street address)

Map No.: 51030AA Tax Lot No.: 4402

Nature of the Request

1. Description of proposed action which requires the development permit. On a separate sheet include a site diagram showing property dimensions, location of proposed activity or structure and its relationship to structures or improvements on the property.

SEE ATTACHMENT.

2. Explain how the request meets the standards which are applicable to the proposal.

3. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and the location and dimensions of the proposed accessory structure.
4. Attach a drawing, photograph or other visual representation of the proposed structure. Include the dimensions of the structure and its height.

Use Additional Sheets as Necessary.

Application Fee: \$100.00

Applicant Signature: David Venada Date: 1/10/22

Property Owner Signature: X David Venada Date: 1/30/23

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners. As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____
Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)

CITY OF CANNON BEACH
DESIGN REVIEW APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: DAVID VONADA
Email Address: DAVID@TELONAMAARCHITECTS.COM
Mailing Address: P.O. BOX 7167
CANNON BEACH, OR. 97110
Telephone: _____

Property-Owner Name: DAVID PIETKA % DAVIDSPRUCE LLC
(if other than applicant)

Mailing Address: 1414 NE GRANT PL.
PORTLAND, OR. 97212
Telephone: _____

Property Location: FIRST & SPRUCE STREETS
(street address)

Map No.: 51030AA Tax Lot No.: 4402

Project Description: A NEW 2 STORY MIXED USE DEVELOPMENT.

Please see the back of this sheet for Design Review submittal requirements for site analysis diagram, site development plan, landscape plan and architectural plans which must be included with this application.

Application Fees: New Application <3000 sf: \$400 >3000 sf: \$500
Major Modification: <3000 sf: \$200 >3000 sf: \$200

Applicant Signature: David Vonada Date: 1/20/23

Property Owner Signature: X David Pietka Date: 1/30/23

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of additional property owners.

This information can be made in alternative format as needed for persons with disabilities.

For Staff Use Only:

Received On: _____ By: _____
Fee Paid: _____ Receipt No.: _____



CITY OF CANNON BEACH DESIGN REVIEW SUBMITTAL REQUIREMENTS

INFORMATION REQUIRED:

Include with your application for design review copies of the following:

- | | | |
|------|-----------------------------|-----------|
| (1) | Site analysis diagram | 10 copies |
| (2) | Site photographs | 2 sets |
| (3) | Site development plan | 10 copies |
| (4) | Landscape plan | 10 copies |
| (5) | Architectural drawings | 10 copies |
| (6) | Architectural model | 1 model |
| (7) | Energy conservation methods | 1 copy |
| ✓(8) | Property survey | 1 copy |

* Note: One week prior to the Design Review Board hearing/consideration, the proposed building corners shall be staked or otherwise marked on the site.

Chapter 17.44 of the Municipal Code sets forth procedures, application requirements and criteria which govern the Design Review Board's evaluation of applications.

Pre-application Conference: A pre-application conference between the applicant and the City Planner is required prior to submittal of a final application (see Section 17.44.040 of the Municipal Code).

Application Deadline: Applications must be submitted by the 10th of the month preceding the month in which the application will be heard and considered by the Design Review Board.

FINAL APPLICATIONS WILL BE REVIEWED WITHIN A WEEK OF SUBMISSION AND MAY BE REJECTED AND RETURNED TO APPLICANT IF FOUND TO BE INCOMPLETE.

[illegible]

CITY OF CANNON BEACH
DESIGN REVIEW APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name:

Email Address:

Mailing Address:

Telephone:

Property-Owner Name:

Mailing Address:

Telephone:

Property Location:

Map No.:

Tax Lot No.:

Project Description:

Please see the back of this sheet for Design Review submittal requirements for site analysis diagram, site development plan, landscape plan and architectural plans which must be included with this application.

Application Fees:

New Application

<3000 sf: \$400

>3000 sf: \$500

Major Modification:

<3000 sf: \$200

>3000 sf: \$200

Applicant Signature:

Date:

Property Owner Signature: ☒

Date:

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of additional property owners.

This information can be made in alternative format as needed for persons with disabilities.

For Staff Use Only:

Received On:

By:

Fee Paid:

Receipt No.:

**CITY OF CANNON BEACH
DESIGN REVIEW SUBMITTAL REQUIREMENTS**

INFORMATION REQUIRED:

Include with your application for design review copies of the following:

- | | | |
|------|-----------------------------|-----------|
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| (2) | Site photographs | 2 sets |
| (3) | Site development plan | 10 copies |
| (4) | Landscape plan | 10 copies |
| (5) | Architectural drawings | 10 copies |
| (6) | Architectural model | 1 model |
| (7) | Energy conservation methods | 1 copy |
| ✓(8) | Property survey | 1 copy |

* Note: One week prior to the Design Review Board hearing/consideration, the proposed building corners shall be staked or otherwise marked on the site.

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PROPOSED PLANT MATERIALS





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FIRST AND SPRUCE
MIXED USE DEVELOPMENT
CANNON BEACH OREGON

&
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@
,



1 FIRST STREET ELEVATION
CS SCALE: 1/16" = 1'-0"

SITE AREA SUMMARY					
		LOT AREA 18,402 SQ.FT.			
		REQUIRED		ACTUAL	
		%	S.F.	%	S.F.
SITE PARKING AREA		—	—	39%	7,154 S.F.
NON CONTRIBUTING ITEMS - TRANSFORMER - TRASH ENCLOSURE		—	—	0%	104 S.F.
SOFT LANDSCAPING		10% MIN.	1,840 S.F.	29%	5,379 S.F.
HARD SURFACE LANDSCAPING		—	—	7%	1,175 S.F.
SOFT & HARD LANDSCAPE TOTAL		20% MIN.	3,680 S.F.	36%	6,564 S.F.
BUILDING FOOTPRINT				25%	4,684 S.F.

SPACE SUMMARY

GROUND FLOOR RETAIL =	3,791 S.F.	
SECOND FLOOR OFFICE / RETAIL =	<u>769 S.F.</u>	
	4,560 S.F.	
(3) SECOND FLOOR APARTMENTS =	2,656 S.F.	
(2) TWO STORY TOWNHOUSES =	1,894 S.F.	
	<u>4,550 S.F.</u>	
	<u>= 50%</u>	
BUILDING LOT COVERAGE =	4,667	= 25%
	18,402	

DRAWING INDEX						
CS	COVER SHEET / SITE PLAN					
A1.1	SITE AND SURVEY PLANS					
A1.2	FLOOR PLANS					
A2.1	NORTH AND WEST ELEVATIONS					
A2.2	SOUTH AND EAST ELEVATIONS					
A3.1	SECTIONS					

INSULATION TABLE










Windows & Sliding Glass Doors	U = 0.30
Exterior Doors	U = 0.20
(Max. 28 s.f. of Exterior Door per Dwelling Unit can have U = 0.34 or less)	
Exterior Door w/ > 2.5 s.f. Glazing	U = 0.40
Wall Insulation - Above Grade	U = 0.059 / R-21
*Including Cripple Walls & Rim Joist Areas	Intermediate
Wall Insulation - Below Grade	C = 0.063 / R-15/R-21
Underfloor Insulation	U = 0.033 / R-30
Flat Ceiling Insulation	U = 0.021 / R-49
Vaulted Ceiling Insulation	U = 0.033
(Vaulted ceiling surface area exceeding 50% of the total heated floor space shall have U = 0.026 or less / R-38)	R-30 Rafter or R-30A Scissor Truss
Forced Air Duct Insulation	R - 8
Skylights	U = 0.50
Slab Edge Perimeter	F = 0.520 / R-15
Heated Slab Interior	R-10
Acoustic Insulation	4" mineral wool

Note: All new insulation at perimeter of building envelope to have 1 perm vapor retarder on warm side.

BUILDING STATISTICS

JURISDICTIONS:	CITY OF CANNON BEACH
ZONING:	C1
OCCUPANCY GROUP	B OFFICE / RETAIL & R-2 RESIDENTIAL
BUILDING CONSTRUCTION TYPE	V
FIRE SPRINKLERS	YES

SYMBOLS LEGEND

KEYNOTE		KEYNOTE NUMBER
ROOM TAG		ROOM NAME ROOM NUMBER
REVISION TAG		REVISION NUMBER
ELEVATION TAG		DETAIL NUMBER SHEET NUMBER
BUILDING SECTION TAG		SECTION NUMBER SHEET NUMBER
DETAIL TAG		DETAIL NUMBER SHEET NUMBER
		SHEAR WALL DESIGNATION SEE SCHEDULE
TITLE LINE		DRAWING NUMBER DRAWING NAME
		DRAWING SCALE SHEET NUMBER

INSULATION TABLE

Tolovana Architect LLC
368 Elk Creek Rd. Suite 408
Cannon Beach, Oregon 97110



FIRST AND SPRUCE
MIXED USE DEVELOPMENT
CANNON BEACH, OREGON

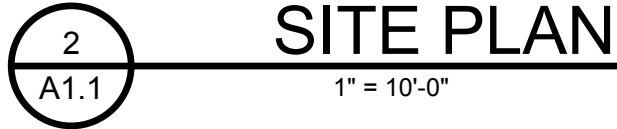
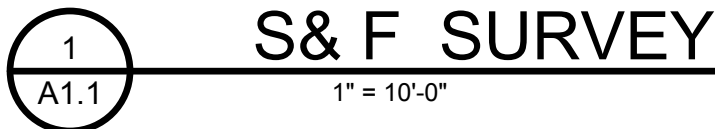
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2020

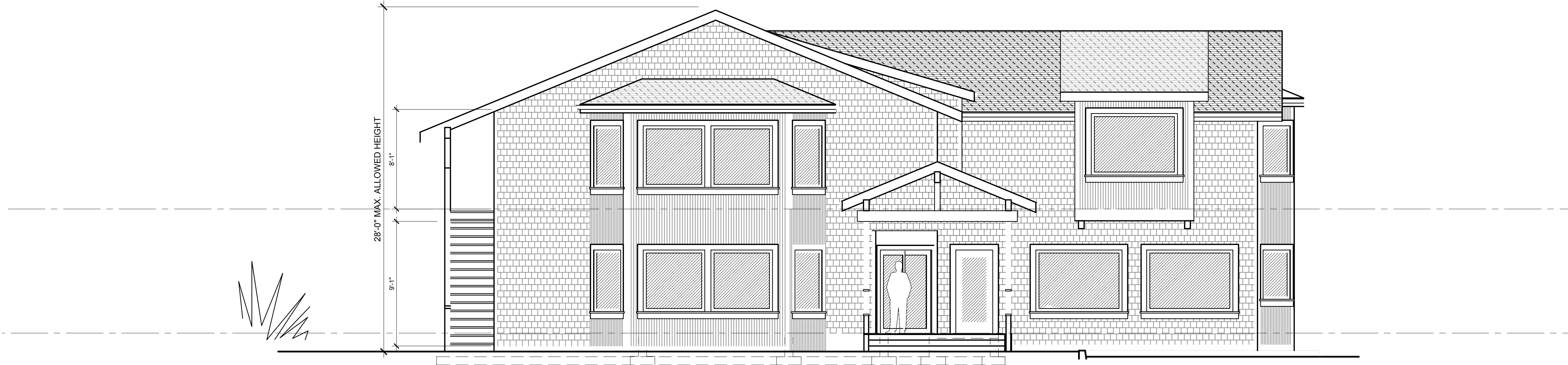
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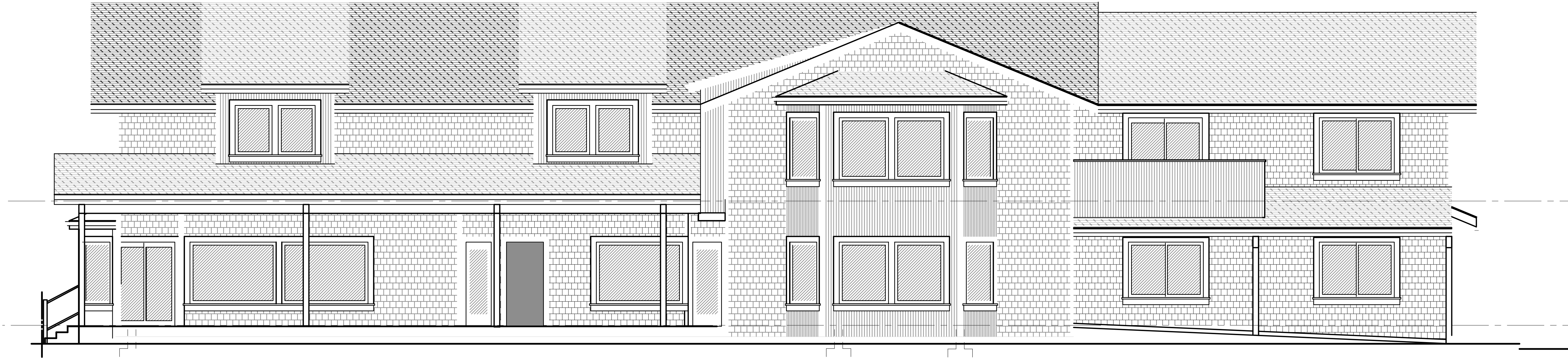
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1
A1.4

NORTH ELEVATION

1/4"=1'-0"



2
A1.4

WEST ELEVATION

1/4"=1'-0"



Tolovana Architect LLC
P.O. Box 648
200 East Warren Way
Tolovana Park, Oregon 97145



DESIGN REVIEW &
DEVELOPMENT PERMIT

FIRST AND SPRUCE
MIXED USE DEVELOPMENT
CANNON BEACH, OREGON

MARK	DATE	DESCRIPTION

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FILE: X
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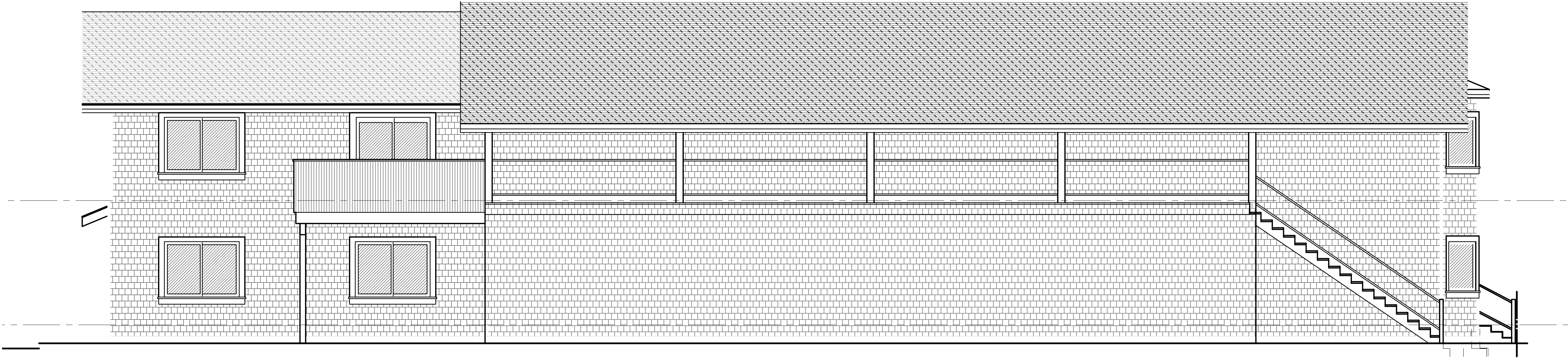
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A2.1

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4
A1.4
SOUTH ELEVATION
1/4"=1'-0"



3
A1.4
EAST ELEVATION
1/4"=1'-0"



Tolovana Architect LLC
P.O. Box 648
200 East Warren Way
Tolovana Park, Oregon 97145



DESIGN REVIEW &
DEVELOPMENT PERMIT

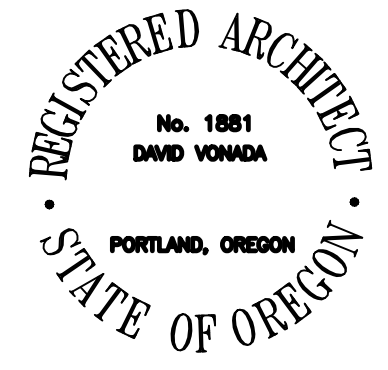
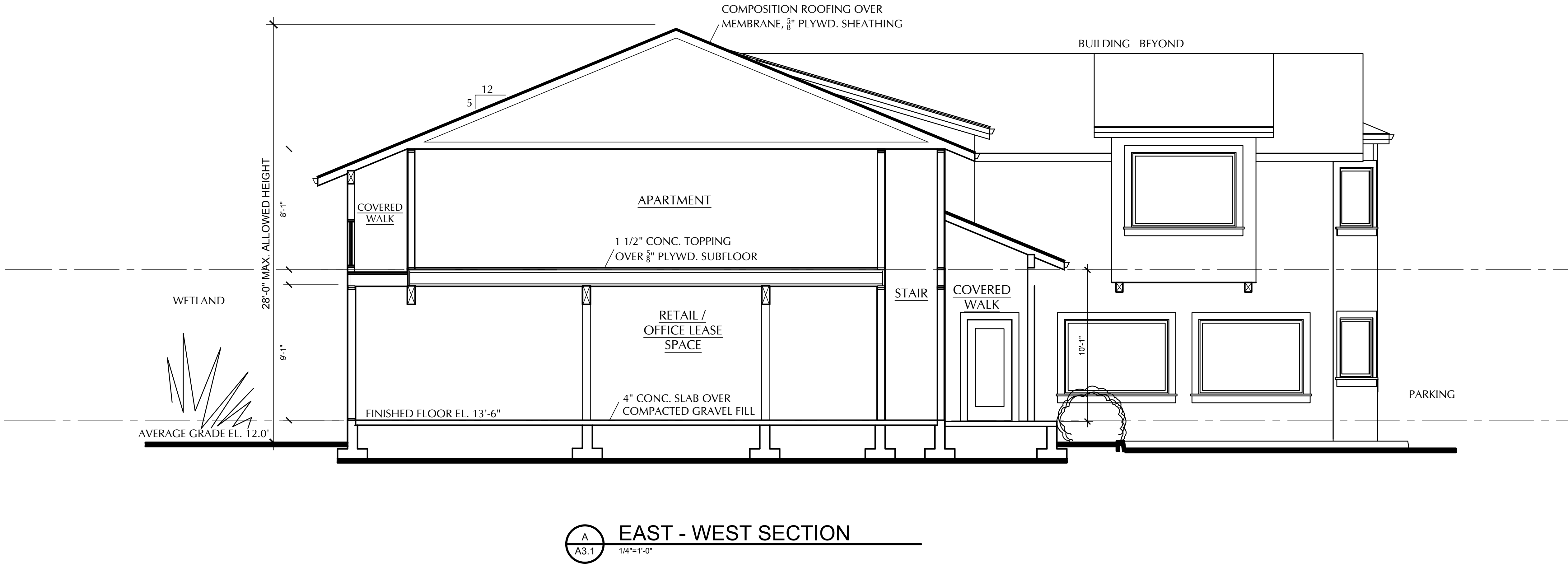
FIRST AND SPRUCE
MIXED USE DEVELOPMENT
CANNON BEACH, OREGON

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Tolovana Architect LLC
P.O. Box 648
200 East Warren Way
Tolovana Park, Oregon 97145



DESIGN REVIEW &
DEVELOPMENT PERMIT

FIRST AND SPRUCE
MIXED USE DEVELOPMENT
CANNON BEACH, OREGON

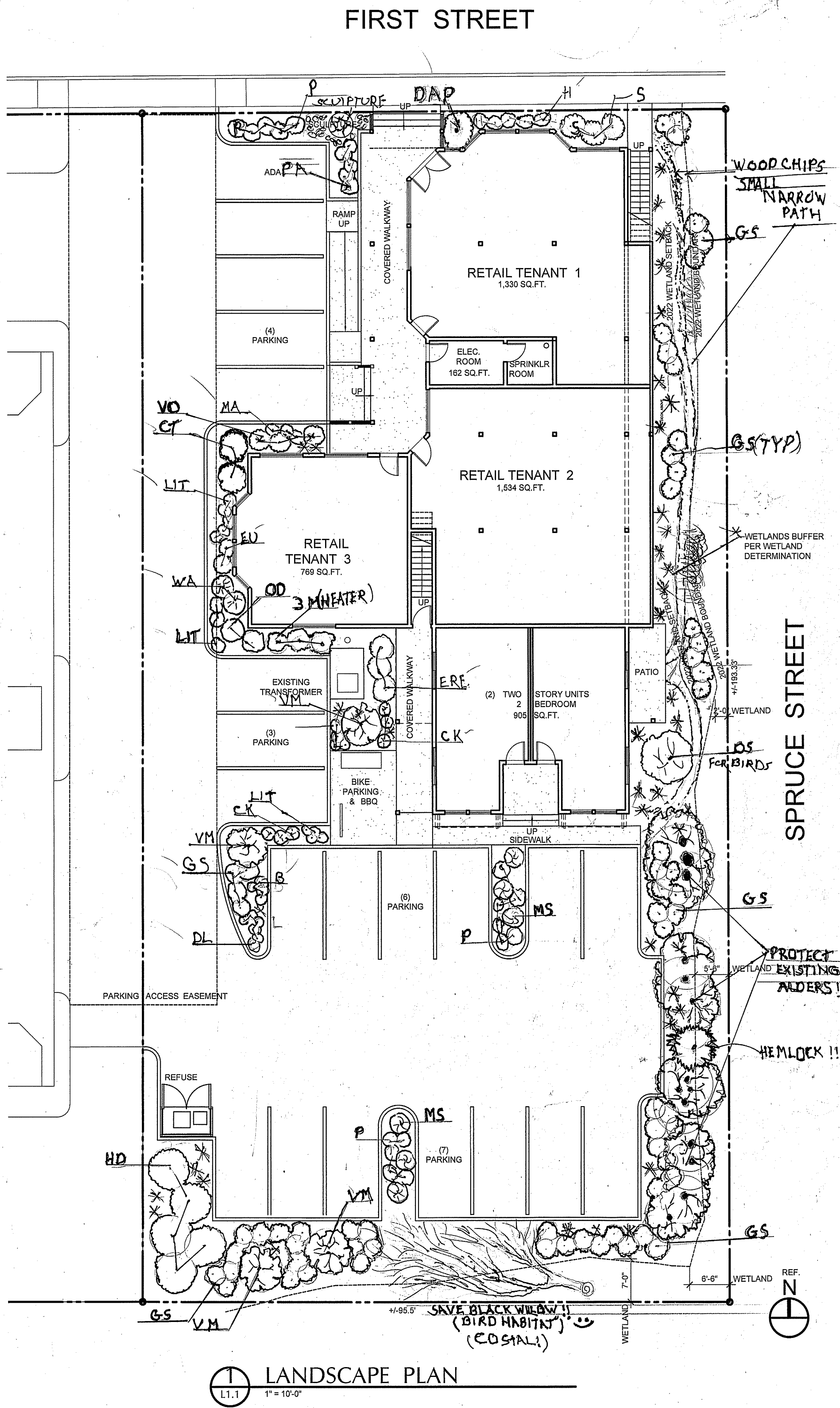
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S = SARCOCOCA 3 2 GAL
 OP = NOTE:
 OSMATHUS LANSCADESIGN EMPESISESES COASTAL NATIVES AND =
 DEAVII 2 GAL AND ORNMENTALS THAT THRIVE IN THE MORT COAST ENVIRONS

LANDSCAPE DESIGN BY LARRY D. MOORE, BLA (UC)





Todd Prager & Associates LLC

MEMORANDUM

DATE: September 21, 2022

TO: Jamie Lerma (Red Crow, LLC)

FROM: Todd Prager, RCA #597, ISA Board Certified Master Arborist

RE: Tree Plan for First and Spruce Project

Summary

This report includes tree removal and protection recommendations based on the preliminary site plan for the First and Spruce project in Cannon Beach, Oregon.

Based on the preliminary site plan, 14 trees over 6-inch diameter (DBH) are proposed for removal and 23 trees will be retained. Of the 23 trees recommended for retention, 12 are within the site boundaries and 11 are within the adjacent right-of-way.

The trees to be retained will be protected by adhering to the recommendations in this report.

Background

The property at First and Spruce Street in Cannon Beach is currently zoned commercial. There is a pending conditional use application before the Planning Commission for four to five single family homes and four to seven attached units.

The property is currently vacant, 0.42 acres in size, and contains a narrow strip of wetland along the eastern property line. The wetland and adjacent area are populated with primarily willow species (*Salix sp.*) and red alder (*Alnus rubra*) trees.

Attachment 1 is the existing conditions map with existing tree locations. Attachment 2 is the preliminary site plan with existing tree locations.

At their August 25, 2022 hearing, the Planning Commission requested an arborist report for the project.

The assignment requested of our firm for this project was to:

- Assess and tag all trees over 6-inch DBH within and directly adjacent to the development site; and
- Provide a report with recommendations for the trees to be removed based on the proposed site plan along with protection recommendations for the trees to be retained.

Tree Assessment

On September 9, 2022 I completed the inventory of existing trees over 6-inch DBH at the project site.

The complete inventory data for each tree is provided in Attachment 3 and includes the tree number, common name, scientific name, DBH, approximate crown radius, health condition, structural condition, pertinent comments, and treatment recommendations (remove or retain).

The tree numbers in the inventory in Attachment 3 correspond to the tree numbers on the existing conditions map in Attachment 1 and proposed site plan in Attachment 2. The trees were also tagged with their corresponding numbers in the field.

Tree Removal and Retention

A typical minimum recommended root protection zone is to limit construction disturbances to no closer than a radius from a tree of 0.5 feet per inch of DBH if no more than 25 percent of the root protection zone area (estimated at one foot radius per inch of DBH) is impacted. Figure 1 illustrates this concept. This tree protection zone is widely accepted in western Oregon to provide adequate tree protection. This standard may need to be adjusted on a case-by-case basis due to tree health, species, root distribution, whether the tree will be impacted on multiple sides, and other factors.

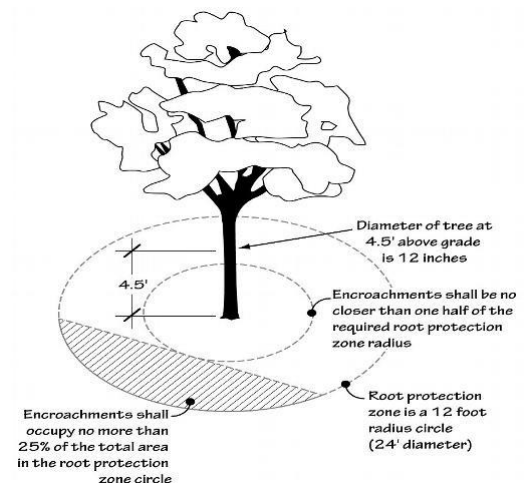


Figure 1: Typical minimum protection zone

Trees 20 and 27 are slightly closer to construction impacts than the typical minimum construction setback illustrated in Figure 1. These trees will be protected with project arborist oversight during construction as further described in the tree protection recommendations section of this report. They will be evaluated in the field during construction with a final recommendation for preservation or removal by the project arborist. If a tree is recommended for removal, coordination and approval from the City of Cannon Beach would be required.

Based on the preliminary site plan and typical minimum root protection illustrated in Attachment 1, 14 trees over 6-inch DBH are proposed for removal and 23 trees will be retained. Of the trees recommended for retention, 12 are within the site boundaries and 11 are within the adjacent right-of-way.

Tree protection recommendations for the trees to be retained are provided in the next section of this report.

Tree Protection Recommendations

As described in the previous section of this report, a typical minimum recommended root protection zone is to limit construction disturbances to no closer than a radius from a tree of 0.5 feet per inch of DBH if no more than 25 percent of the root protection zone area (estimated at one foot radius per inch of DBH) is impacted. Figure 1 illustrates this concept. This standard may need to be adjusted on a case-by-case basis due to tree health, species, root distribution, whether the tree will be impacted on multiple sides, and other factors.

The root protection zone radii of one foot per inch of DBH and typical minimum construction setback radii of 0.5 feet per inch of DBH are shown on the existing conditions map and proposed site plan in Attachments 1 and 2 for the trees to be retained adjacent to proposed construction. The trees to be retained can be protected by placing tree protection fencing at or beyond their typical minimum protection zones wherever possible as shown in Attachments 1 and 2. No grading, excavation, stockpiling, storage, disposal, or any other construction related activity shall occur in the tree protection zones unless specifically reviewed and approved by the project arborist.

The following additional tree protection measures shall apply to the trees to be retained:

- *Tree Protection Fencing:* Tree protection fencing shall be installed in the locations shown in Attachments 1 and 2 prior to construction. If work is required in the tree protection zones, the project arborist shall be consulted to oversee the work.
- *Directional Felling:* Fell the trees to be removed away from the trees to be retained so they do not contact or otherwise damage the trunks or branches of the trees to be retained. No vehicles or heavy equipment shall be permitted within the tree protection zones during tree removal operations.
- *Periodic Risk Assessments:* A new forest edge will be created at the site with the removal of existing trees for development. This will increase the windthrow risk of exposed trees along the new edges. I recommend that the project arborist conduct a tree risk assessment immediately following site clearing to identify trees that pose significant risks. For trees that pose significant risks, mitigation strategies for retaining them such as pruning or snag creation should be explored as recommended by the project arborist. Any recommended tree removal or snag creation will require the review and approval of the City of Cannon Beach. Risk assessments should be conducted periodically throughout construction to document whether trees are adapting to the new edge conditions and risks are mitigated appropriately with City approval.
- *Stump Removal:* Flush cut and retain stumps or carefully grind stumps of trees to be removed from within the tree protection zones. Do not pull stumps with a machine.

- *Utilities:* The utility alignments are not yet known as of the writing of this report. Utilities shall be routed outside the tree protection zones unless otherwise approved by the project arborist using techniques such as directional boring at appropriate depths or pneumatic excavation.
- *Grading:* The final grading plan is not yet known as of the writing of this report. No grading is permitted within the tree protection zones unless otherwise approved by the project arborist and the amount of grading is four inches or less. If additional grading is required within the tree protection zones, it shall be reviewed and approved with conditions by the project arborist to limit tree impacts. If significant impacts from grading will occur, additional tree removal may be required if permitted by the City of Cannon Beach.
- *Building Foundations Adjacent to Tree Protection Zones:* The project arborist shall be onsite to oversee excavation adjacent to trees 13, 19, 20, 24, 25, and 27. Any roots over 2-inches in diameter will need to be preserved or pruned with sharp pruning tools as directed by the project arborist. Trees 20 and 27 are slightly closer to construction impacts than the typical minimum construction setback illustrated in Figure 1. These trees will be evaluated in the field during construction with a final recommendation for preservation or removal by the project arborist. If a tree is recommended for removal, coordination and approval from the City of Cannon Beach would be required.
- *Compaction Management:* If needed for construction access, a 12-inch layer of wood chips over geotextile fabric shall be placed in the tree protection zones as shown in Attachments 1 and 2 to prevent excessive soil compaction from construction traffic. The project arborist will need to review and approve shifting of the fence locations and final placement of wood chips if required. The fabric and wood chips must be maintained daily to ensure the layer of protection is effective. The fabric and wood chips should be removed after construction is complete.
- *Crown Pruning Trees:* If the crowns of any trees need to be raised and/or reduced, it shall occur prior to construction. The pruning shall be conducted by an ISA certified arborist in accordance with ANSI A300 pruning standards in coordination with the project arborist. The pruning shall be the minimum necessary to achieve the required clearance for construction.
- *Erosion Control:* If erosion control is required within or directly adjacent to the tree protection fencing, straw wattles shall be used to avoid excavation.

Additional tree protection recommendations for the trees to be retained are provided in Attachment 4.

Conclusion

Based on the preliminary site plan, 14 trees over 6-inch diameter (DBH) are proposed for removal and 23 trees will be retained. Of the trees recommended for retention, 12 are within the site boundaries and 11 are within the adjacent right-of-way.

The trees to be retained will be protected by adhering to the recommendations in this report. Any change to the tree protection plan should be approved by the project arborist to ensure that the trees to be retained are adequately protected.

Please contact me if you have questions, concerns, or need any additional information.

Sincerely,



Todd Prager

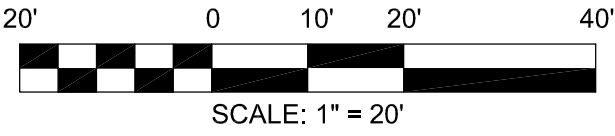
*ASCA Registered Consulting Arborist #597
ISA Board Certified Master Arborist, WE-6723B
ISA Qualified Tree Risk Assessor
AICP, American Planning Association*

Attachments: Attachment 1 - Existing Conditions Map with Trees
Attachment 2 - Site Plan with Trees
Attachment 3 - Tree Inventory
Attachment 4 - Tree Protection Recommendations
Attachment 5 - Assumptions and Limiting Conditions

Attachment 1

TOPOGRAPHIC SURVEY

FOR RED CROW LLC
TAXLOT 51030AA04402
LOCATED IN THE NE 1/4 OF SECTION 30
TOWNSHIP 5 NORTH, RANGE 10 WEST,
OF THE WILLAMETTE MERIDIAN,
CLATSOP COUNTY, OREGON

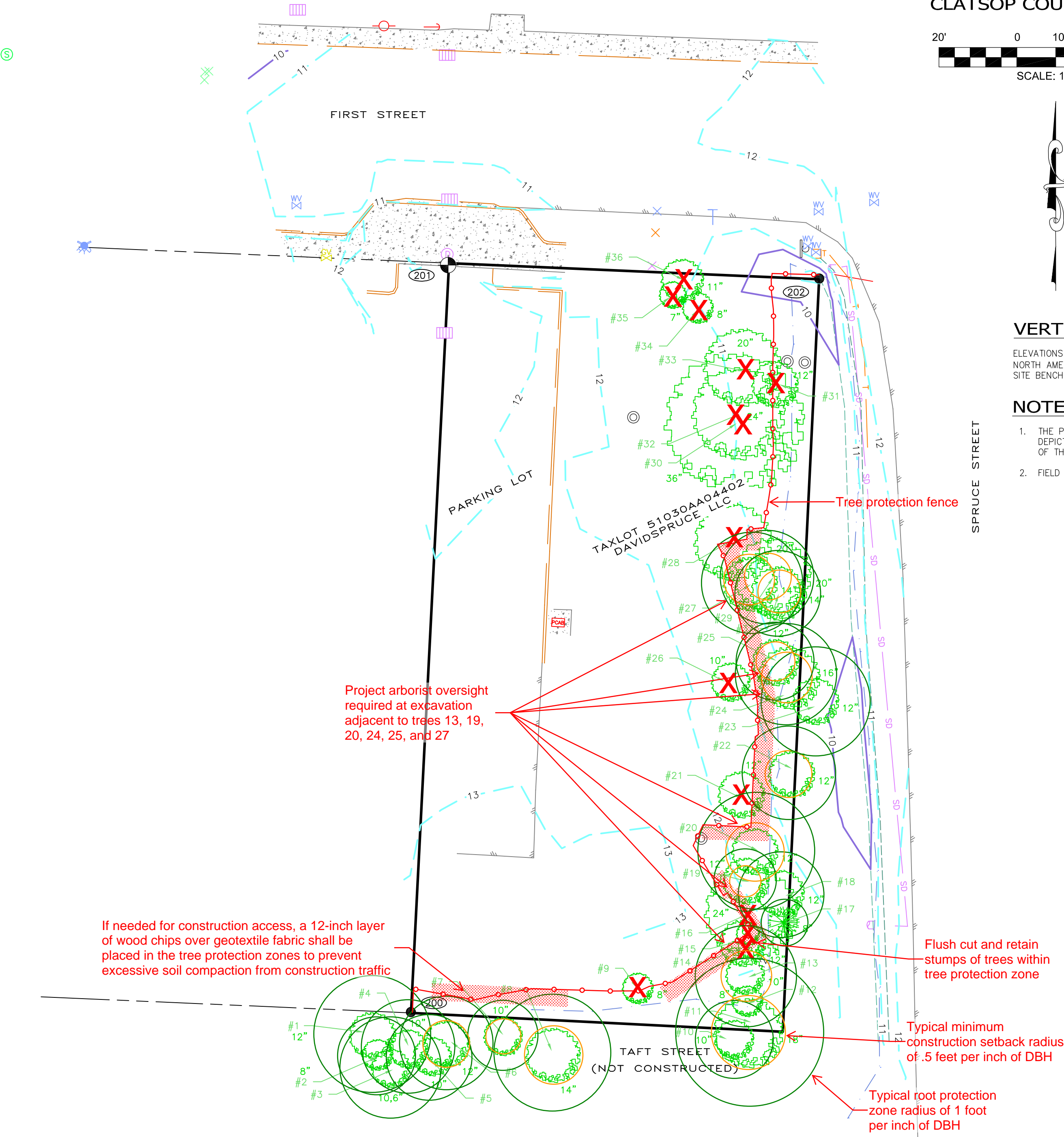


VERTICAL DATUM:

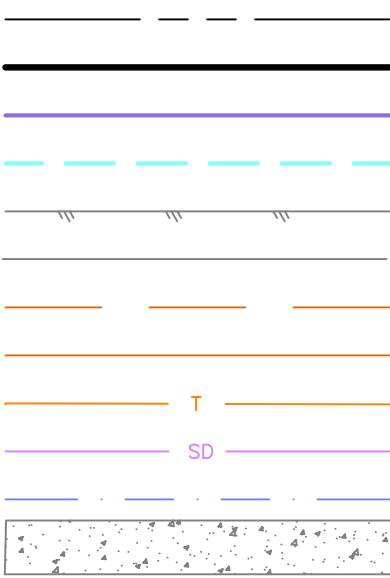
ELEVATIONS ARE BASED GPS OBSERVATIONS VIA ORGN
NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88)
SITE BENCHMARKS AT MONUMENTS (201)

NOTES:

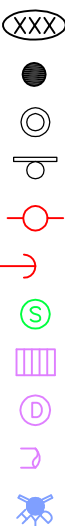
1. THE PURPOSE OF THIS SURVEY IS TO GRAPHICALLY
DEPICT THE EXISTING CONDITIONS AND IMPROVEMENTS
OF THE SUBJECT PROPERTY
2. FIELD WORK WAS COMPLETED IN JUNE, 2022



LEGEND:



RIGHT OF WAY
BOUNDARY LINE
MAJOR CONTOUR
MINOR CONTOUR
EDGE OF PAVEMENT
EDGE OF CONCRETE
FLOW LINE CURB
STANDARD CURB
TELEPHONE
STORM SEWER
WETLAND AREA
CONCRETE HATCH



MONUMENT NUMBER
FOUND MONUMENT — SEE MONUMENT NOTES
TEST PIT / BOREHOLE
SIGN
POWER POLE
GUY ANCHOR
SANITARY SEWER MANHOLE
STORM CATCH BASIN
STORM MANHOLE
STORM CULVERT
FIRE HYDRANT
WATER VALVE
GAS VALVE
TELEPHONE RISER
POWER CABINET
TELEPHONE CABINET
TREE — DECIDUOUS
TREE — CONIFER

MONUMENT NOTES:

- (200) FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "HLB & ASSOC. INC." ±FLUSH WITH GROUND
- (201) FOUND TACK IN SIDEWALK ±FLUSH WITH SIDEWALK
HELD AS SITE BENCHMARK WITH AN ELEVATION OF 11.94'
- (202) FOUND RUSTY 1/2" IRON PIPE IN DITCH

S&F Land Services

PORTLAND, VANCOUVER, BEND, SEASIDE

1725 N ROOSEVELT DR,
STE B, SEASIDE, OR 97138
(503) 738-3425

WWW.SFLANDS.COM

EMAIL: INFO@SFLANDS.COM

22G51302_TREE.dwg

DATE	JOB NO.	FIELD	DRAWN	CHECKED
JUNE 8, 2022	22G51302	JPW	JET	JPW

SURVEY FOR:

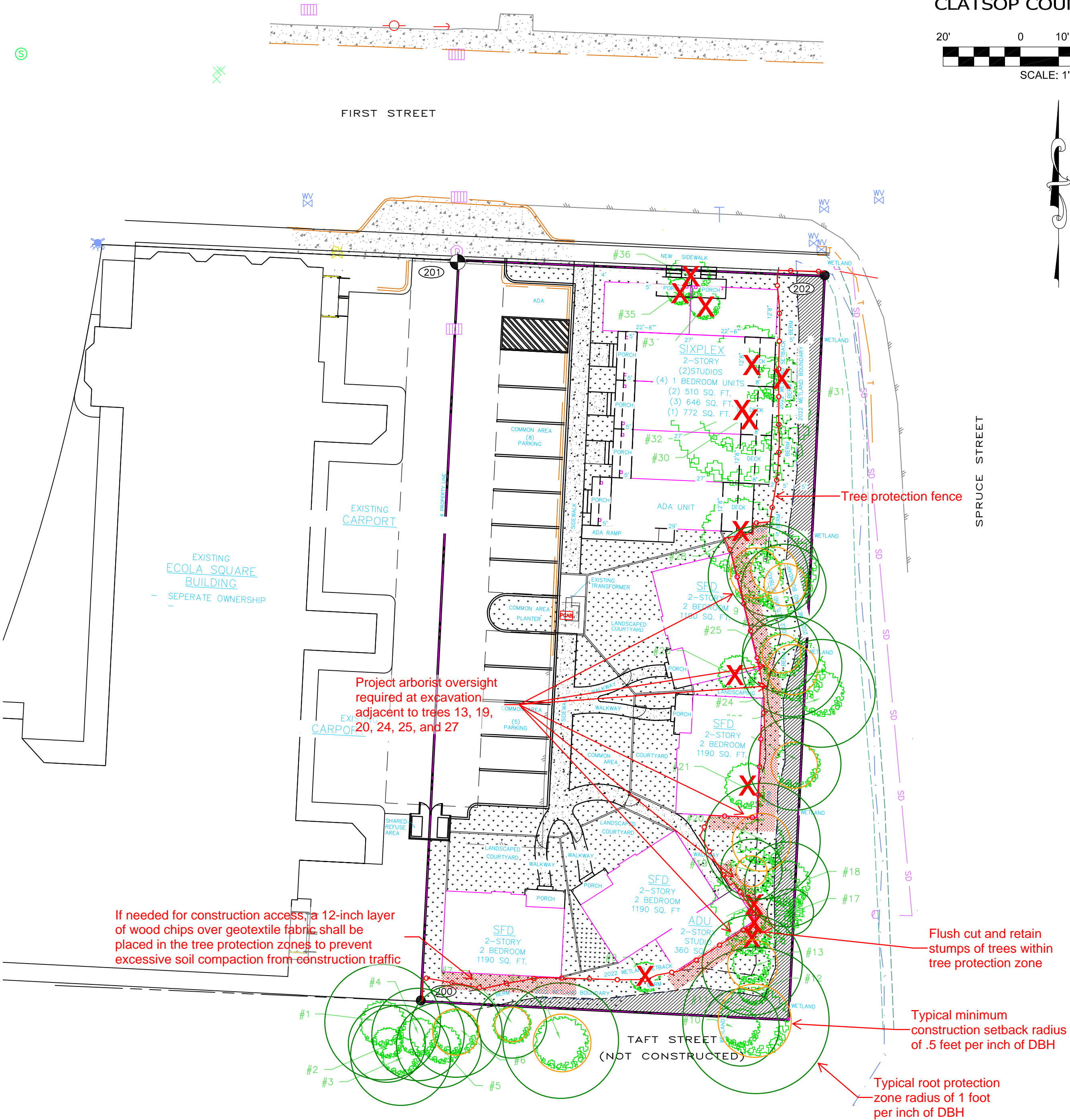
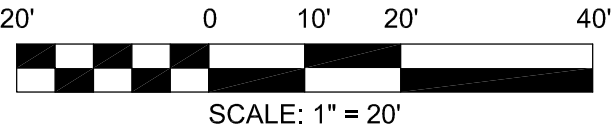
RED CROW LLC

TAXLOT
51030AA04402
NE 1/4 OF SEC 30
T5N, R10W, W.M.
CLATSOP COUNTY

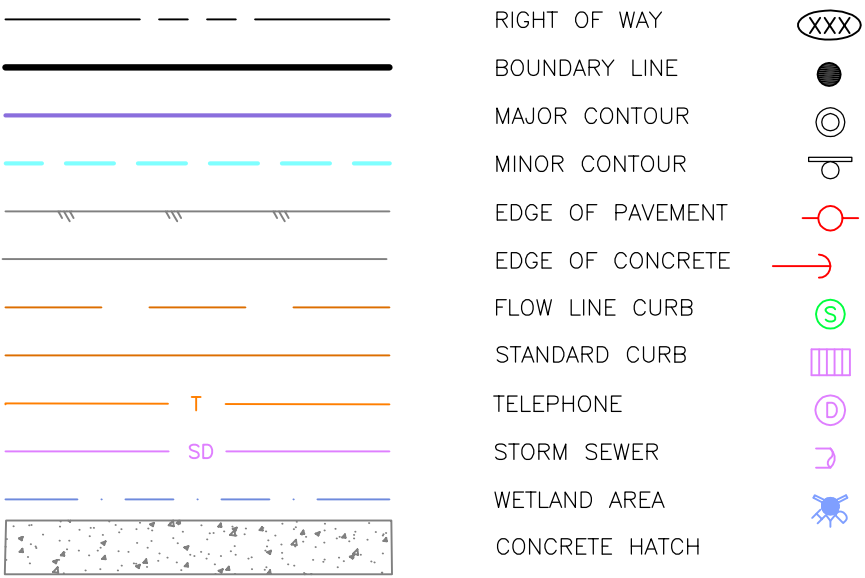
Attachment 2

SITE MAP EXHIBIT

FOR RED CROW LLC
TAXLOT 51030AA04402
LOCATED IN THE NE 1/4 OF SECTION 30
TOWNSHIP 5 NORTH, RANGE 10 WEST,
OF THE WILLAMETTE MERIDIAN,
CLATSOP COUNTY, OREGON



LEGEND:



MONUMENT NUMBER
FOUND MONUMENT — SEE MONUMENT NOTES
TEST PIT / BOREHOLE
SIGN
POWER POLE
GUY ANCHOR
SANITARY SEWER MANHOLE
STORM CATCH BASIN
STORM MANHOLE
STORM CULVERT
FIRE HYDRANT

MONUMENT NOTES:

(200) FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "HLB & ASSOC. INC." ±FLUSH WITH GROUND
(201) FOUND TACK IN SIDEWALK ±FLUSH WITH SIDEWALK HELD AS SITE BENCHMARK WITH AN ELEVATION OF 11.94'
(202) FOUND RUSTY 1/2" IRON PIPE IN DITCH
WATER VALVE
GAS VALVE
TELEPHONE RISER
POWER CABINET
TELEPHONE CABINET
TREE — DECIDUOUS
TREE — CONIFER



PORTLAND, VANCOUVER, BEND, SEASIDE

1725 N ROOSEVELT DR,
STE B, SEASIDE, OR 97138
(503) 738-3425

WWW.SFLANDS.COM

EMAIL: INFO@SFLANDS.COM

22G51302_SITE.dwg

DATE	JOB NO.	FIELD	DRAWN	CHECKED
JUNE 8, 2022	22G51302	JPW	JET	JPW

SURVEY FOR:
RED CROW LLC

TAXLOT
51030AA04402
NE 1/4 OF SEC 30
T5N, R10W, W.M.
CLATSOP COUNTY



Attachment 3 - Tree Inventory

Attachment 3

Tree No.	Common Name	Scientific Name	DBH ¹	Single DBH ²	C-Rad ³	Condition ⁴	Structure	Comments	Treatment
1	red alder	<i>Alnus rubra</i>	15	15	20	good	fair	one sided	retain
2	red alder	<i>Alnus rubra</i>	10	10	10	fair	poor	poor trunk taper, 10% live crown ratio, one sided	retain
3	red alder	<i>Alnus rubra</i>	11,7	13	15	fair	fair	codominant at ground level, leans south	retain
4	red alder	<i>Alnus rubra</i>	12	12	20	good	fair	one sided	retain
5	red alder	<i>Alnus rubra</i>	11	11	10	good	fair	one sided, leans south	retain
6	red alder	<i>Alnus rubra</i>	12	12	20	good	fair	one sided	retain
7	red alder	<i>Alnus rubra</i>	9	9	12	good	fair	east-west crown extension suppressed by adjacent trees	retain
8	red alder	<i>Alnus rubra</i>	15	15	20	good	good		retain
9	Hookers willow	<i>Salix hookeriana</i>	7,6	9	19	good	fair	codominant at ground level, extreme lean northwest	remove
10	red alder	<i>Alnus rubra</i>	10	10	15	good	fair	one sided	retain
11	red alder	<i>Alnus rubra</i>	19	19	20	good	fair	codominant at 10'	retain
12	red alder	<i>Alnus rubra</i>	9,7	11	10	good	fair	codominant at 2'	retain
13	red alder	<i>Alnus rubra</i>	11,9	13	15	good	fair	codominant at 1' with included bark	retain
14	red alder	<i>Alnus rubra</i>	12,12	16	25	good	fair	codominant at 1'	remove
15	red alder	<i>Alnus rubra</i>	6	6	0	very poor	very poor	dead	remove
16	Scoulers willow	<i>Salix scouleriana</i>	20,17,12	28	30	poor	poor	three stems at 1', 20" stem failed, extensive decay	remove
17	Sitka spruce	<i>Picea sitchensis</i>	6	6	10	good	good		retain
18	red alder	<i>Alnus rubra</i>	10,5	11	15	fair	fair	one sided, leans toward street, codominant at 1'	retain
19	red alder	<i>Alnus rubra</i>	8	8	5	fair	poor	poor trunk taper, 10% live crown ratio	retain
20	red alder	<i>Alnus rubra</i>	11,11	15	15	fair	fair	codominant at ground level, south trunk with decay seam and lean toward street	retain
21	red alder	<i>Alnus rubra</i>	12,12,12,9	22	25	good	fair	multiple leaders at ground level, ivy along trunk	remove
22	red alder	<i>Alnus rubra</i>	10,6,3	12	12	good	fair	multiple leaders at ground level, leans toward street	retain
23	Scoulers willow	<i>Salix scouleriana</i>	9,9,5,4	14	20	fair	poor	partially failed into wetland, multiple leaders at lower trunk	retain
24	Hookers willow	<i>Salix hookeriana</i>	13	13	20	fair	fair	failed into wetland	retain
25	red alder	<i>Alnus rubra</i>	10	10	10	good	fair	significant lean west	remove



Attachment 3 - Tree Inventory

Attachment 3

Tree No.	Common Name	Scientific Name	DBH ¹	Single DBH ²	C-Rad ³	Condition ⁴	Structure	Comments	Treatment
26	Hookers willow	<i>Salix scouleriana</i>	6	6	6	fair	poor	fallen over	retain
27	Pacific willow	<i>Salix lucida</i>	11,6,5	13	15	fair	poor	fallen over	retain
28	Scoulers willow	<i>Salix scouleriana</i>	6	6	7	poor	poor	fallen over, covered with ivy	remove
29	Scoulers willow	<i>Salix scouleriana</i>	8,7,5,4	12	12	poor	poor	fallen over	retain
30	Hookers willow	<i>Salix hookeriana</i>	9,7,4	12	15	poor	poor	fallen over	remove
31	Hookers willow	<i>Salix hookeriana</i>	7,6	9	8	poor	poor	partially failed, top dieback	remove
32	Hookers willow	<i>Salix hookeriana</i>	10,10,7	15	12	poor	poor	fallen over, extensive ivy	remove
33	Hookers willow	<i>Salix hookeriana</i>	7	7	7	poor	poor	fallen over	remove
34	Hookers willow	<i>Salix hookeriana</i>	6,3	6,3	12	fair	fair	extreme lean towards site	remove
35	red alder	<i>Alnus rubra</i>	6	6	6	good	good		remove
36	red alder	<i>Alnus rubra</i>	10	10	12	good	fair	codominant at 5' with included bark	remove
37	Pacific willow	<i>Salix lucida</i>	11	11	10	good	fair	one sided, significant epicormic growth	retain

¹DBH is the trunk diameter in inches measured per International Society of Arboriculture (ISA) standards.

²Single DBH is the trunk diameter of a multi-stem tree converted to a single number according to the following formula: square root of the sum of the squared diameter of each trunk at 4½ feet above mean ground level.

³C-Rad is the approximate crown radius in feet.

⁴Condition and Structure ratings range from very poor, poor, fair, to good.

Attachment 4 Additional Tree Protection Recommendations

The following recommendations are consistent with City of Cannon Beach Code requirements:

Before Construction Begins

1. Notify all contractors of tree protection procedures. For successful tree protection on a construction site, all contractors must know and understand the goals of tree protection.
 - a. Hold a tree protection meeting with all contractors to explain the goals of tree protection.
 - b. Have all contractors sign memoranda of understanding regarding the goals of tree protection. The memoranda should include a penalty for violating the tree protection plan. The penalty should equal the resulting fines issued by the local jurisdiction plus the appraised value of the tree(s) within the violated tree protection zone per the current Trunk Formula Method as outlined in the current edition of the ***Guide for Plant Appraisal*** by the Council of Tree & Landscape Appraisers. The penalty should be paid to the owner of the property.
2. Fencing
 - a. Trees to remain on site will be protected by installation of tree protection fencing as shown in Attachment 1.
 - b. Unless otherwise noted, the fencing should be put in place before the ground is cleared to protect the trees and the soil around the trees from disturbances.
 - c. Fencing should be established by the project arborist based on the needs of the trees to be protected and to facilitate construction.
 - d. Fencing should consist of 6-foot-high steel fencing on concrete blocks or 6-foot metal fencing secured to the ground with 8-foot metal posts to prevent it from being moved by contractors, sagging, or falling down.
 - e. Fencing should remain in the position that is established by the project arborist and not be moved without approval from the project arborist.
3. Signage
 - a. All tree protection fencing should have signage as follows so that all contractors understand the purpose of the fencing:

TREE PROTECTION ZONE

DO NOT REMOVE OR ADJUST THE LOCATION OF THIS
TREE PROTECTION FENCING
UNAUTHORIZED ENCROACHMENT MAY RESULT IN FINES

Please contact the project arborist if alterations to the location of the tree protection fencing are necessary.

Todd Prager, Project Arborist, Todd Prager & Associates, 971-295-4835

- b. Signage should be placed every 75-feet or less.

During Construction

1. Protection Guidelines Within the Tree Protection Zones:
 - a. No new buildings; grade change or cut and fill, during or after construction; new impervious surfaces; or utility or drainage field placement should be allowed within the tree protection zones.
 - b. No traffic should be allowed within the tree protection zones. This includes but is not limited to vehicle, heavy equipment, or even repeated foot traffic.
 - c. No storage of materials including but not limiting to soil, construction material, or waste from the site should be permitted within the tree protection zones. Waste includes but is not limited to concrete wash out, gasoline, diesel, paint, cleaner, thinners, etc.
 - d. Construction trailers should not to be parked/placed within the tree protection zones.
 - e. No vehicles should be allowed to park within the tree protection zones.
 - f. No other activities should be allowed that will cause soil compaction within the tree protection zones.
2. The trees should be protected from any cutting, skinning or breaking of branches, trunks or woody roots.
3. The project arborist should be notified prior to the cutting of woody roots from trees that are to be retained to evaluate and oversee the proper cutting of roots with sharp cutting tools. Cut roots should be immediately covered with soil or mulch to prevent them from drying out.
4. Trees that have woody roots cut should be provided supplemental water during the summer months.
5. Any necessary passage of utilities through the tree protection zones should be by means of tunneling under woody roots by hand digging or boring with oversight by the project arborist.
6. Any deviation from the recommendations in this section should receive prior approval from the project arborist.

After Construction

1. Carefully landscape the areas within the tree protection zones. Do not allow trenching for irrigation or other utilities within the tree protection zones.
2. Carefully plant new plants within the tree protection zones. Avoid cutting the woody roots of trees that are retained.
3. Do not install permanent irrigation within the tree protection zones unless it is drip irrigation to support a specific planting or the irrigation is approved by the project arborist.
4. Provide adequate drainage within the tree protection zones and do not alter soil hydrology significantly from existing conditions for the trees to be retained.
5. Provide for the ongoing inspection and treatment of insect and disease populations that can damage the retained trees and plants.
6. The retained trees may need to be fertilized if recommended by the project arborist.
7. Any deviation from the recommendations in this section should receive prior approval from the project arborist.

Attachment 5

Assumptions and Limiting Conditions

1. Any legal description provided to the consultant is assumed to be correct. The site plans and other information provided by Red Crow, LLC and their consultants was the basis of the information provided in this report.
2. It is assumed that this property is not in violation of any codes, statutes, ordinances, or other governmental regulations.
3. The consultant is not responsible for information gathered from others involved in various activities pertaining to this project. Care has been taken to obtain information from reliable sources.
4. Loss or alteration of any part of this delivered report invalidates the entire report.
5. Drawings and information contained in this report may not be to scale and are intended to be used as display points of reference only.
6. The consultant's role is only to make recommendations. Inaction on the part of those receiving the report is not the responsibility of the consultant.
7. The purpose of this report is to:
 - Provide an assessment and tag all trees over 6-inch DBH within and directly adjacent to the development site; and
 - Provide recommendations for the trees to be removed based on the proposed site plan along with protection recommendations for the trees to be retained.



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

July 19, 2022

Red Crow, LLC

Attn: Jamie Lerma

PO Box 825

Cannon Beach, OR 97110

Kate Brown

Governor

Shemia Fagan
Secretary of State

Re: WD # 2022-0212 **Approved**

Wetland Delineation Report for Ecola Square Condominium Project

Clatsop County; T5N R10W S30AA TL4402

Cannon Beach Local Wetlands Inventory, Wetland CB-11

Tobias Read

State Treasurer

Dear Jamie Lerma:

The Department of State Lands has reviewed the wetland delineation report prepared by Critical Areas Consulting for the site referenced above. Based upon the information presented in the report, we concur with the wetland boundaries as mapped in Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, one wetland totaling approximately 0.03 acres was identified. The wetland is subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal, other state agencies or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact Chris Stevenson, PWS, at (503) 986-5246.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ryan", with a stylized flourish at the end.

Peter Ryan, SPWS
Aquatic Resource Specialist

Enclosures

ec: Robert S. Bogar, Critical Areas Consulting
City of Cannon Beach Planning Department
Brad Johnson, Corps of Engineers
Dan Cary, SPWS, DSL
Oregon Coastal Management Program

WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

Fully completed and signed report cover forms and applicable fees are required before report review timelines are initiated by the Department of State Lands. Make checks payable to the Oregon Department of State Lands. To pay fees by credit card, go online at: <https://apps.oregon.gov/DSL/EPS/program?key=4>.

Attach this completed and signed form to the front of an unbound report or include a hard copy with a digital version (single PDF file of the report cover form and report, minimum 300 dpi resolution) and submit to: **Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279**. A single PDF of the completed cover form and report may be e-mailed to: **Wetland_Delineation@dsl.state.or.us**. For submittal of PDF files larger than 10 MB, e-mail DSL instructions on how to access the file from your ftp or other file sharing website.

Contact and Authorization Information

☒ Applicant ☐ Owner Name, Firm and Address:

Jamie Lerma, Red Crow, LLC
PO Box 825
Cannon Beach, OR 97110

Business phone # 503-849-0258

Mobile phone # (optional)

E-mail: jamie@redcrowgc.com

☐ Authorized Legal Agent, Name and Address (if different):

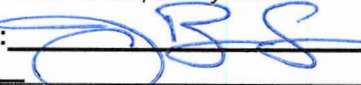
Business phone #

Mobile phone # (optional)

E-mail:

I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.

Typed/Printed Name: Jamie B. Lerma

Signature: 

Date: 4/15/2022

Special instructions regarding site access: _____

Project and Site Information

Project Name: Ecola Square Condominium Project

Latitude: 45.89626

Longitude: -123.96011

decimal degree - centroid of site or start & end points of linear project

Proposed Use:

Condominiums

Tax Map # 51030AA

Tax Lot(s) 4402

Tax Map # _____

Project Street Address (or other descriptive location):

SW corner of intersection of E 1st St. and S Spruce St

Tax Lot(s) _____

Township 5N

Range 10W

Section 30

QQ AA

Use separate sheet for additional tax and location information

City: Cannon Beach

County: Clatsop

Waterway: N/A

River Mile: N/A

Wetland Delineation Information

Wetland Consultant Name, Firm and Address:

Critical Areas Consulting
949 14th Street
Astoria, OR 97103

Phone # (360) 244-2630

Mobile phone # (if applicable)

E-mail: Rbogar@gmail.com

The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.

Consultant Signature: Robert S. Bogar

Date: 09/03/2021

Primary Contact for report review and site access is ☒ Consultant ☒ Applicant/Owner ☐ Authorized Agent

Wetland/Waters Present? ☒ Yes ☐ No

Study Area size: 0.42 acres

Total Wetland Acreage: 0.0300

Check Applicable Boxes Below

☐ R-F permit application submitted

☐ Fee payment submitted \$ _____

☐ Mitigation bank site

☐ Resubmittal of rejected report (\$100)

☐ EFSC/ODOE Proj. Mgr: _____

☐ Request for Reissuance. See eligibility criteria. (no fee)

☐ Wetland restoration/enhancement project (not mitigation)

DSL # _____ Expiration date _____

☐ Previous delineation/application on parcel
If known, previous DSL # _____

☒ LWI shows wetlands or waters on parcel
Wetland ID code 11

For Office Use Only

DSL Reviewer: DE

Fee Paid Date: _____ / _____ / _____

DSL WD # 2022-0212

Date Delineation Received: 4 / 19 / 22

Scanned: ☐

Electronic: ☒

DSL App.# _____

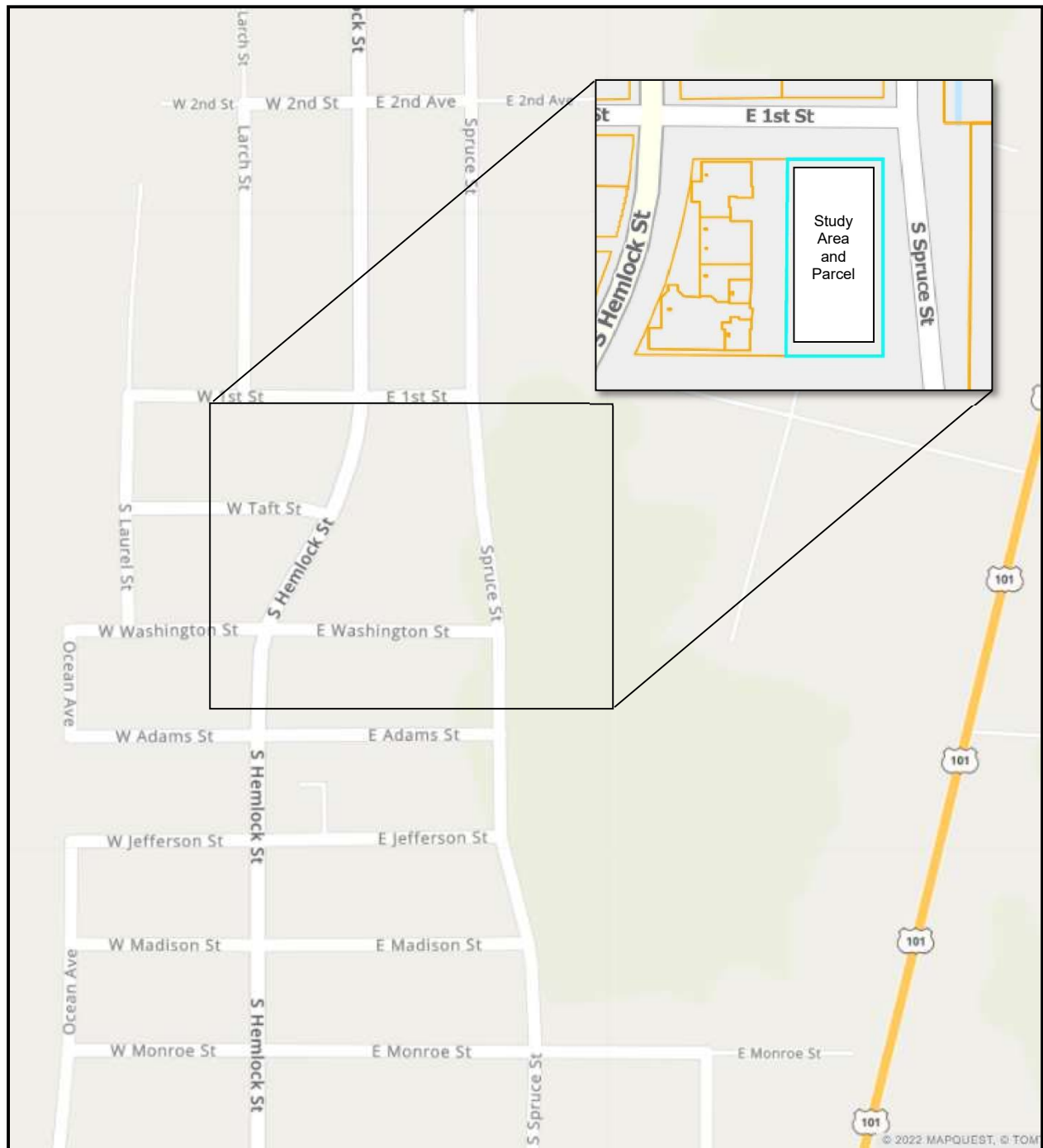


Figure 1
Site Vicinity Map

Wetland Delineation
Tax Map No. 51030AA04402
Cannon Beach, Oregon

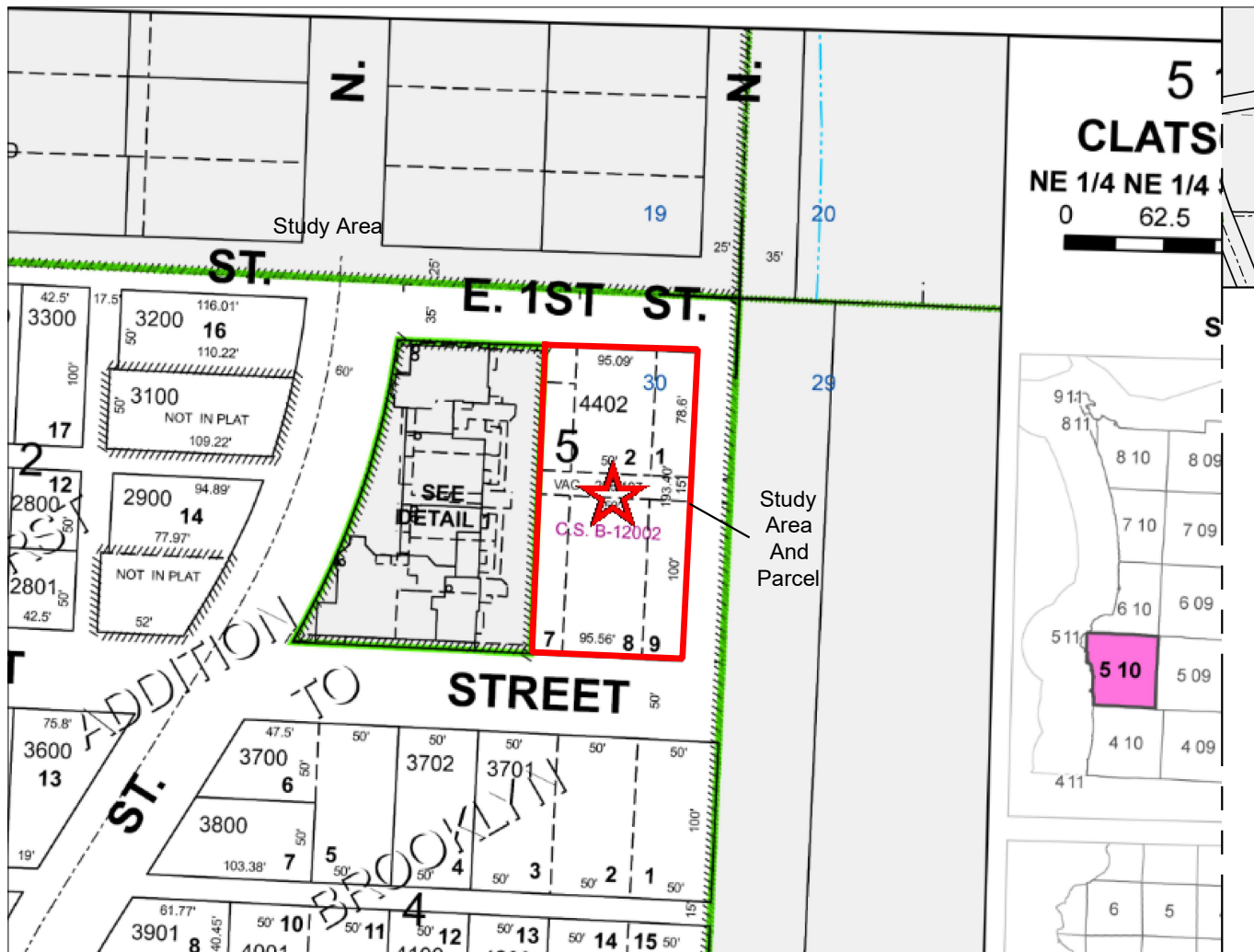
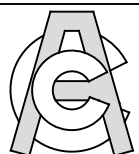


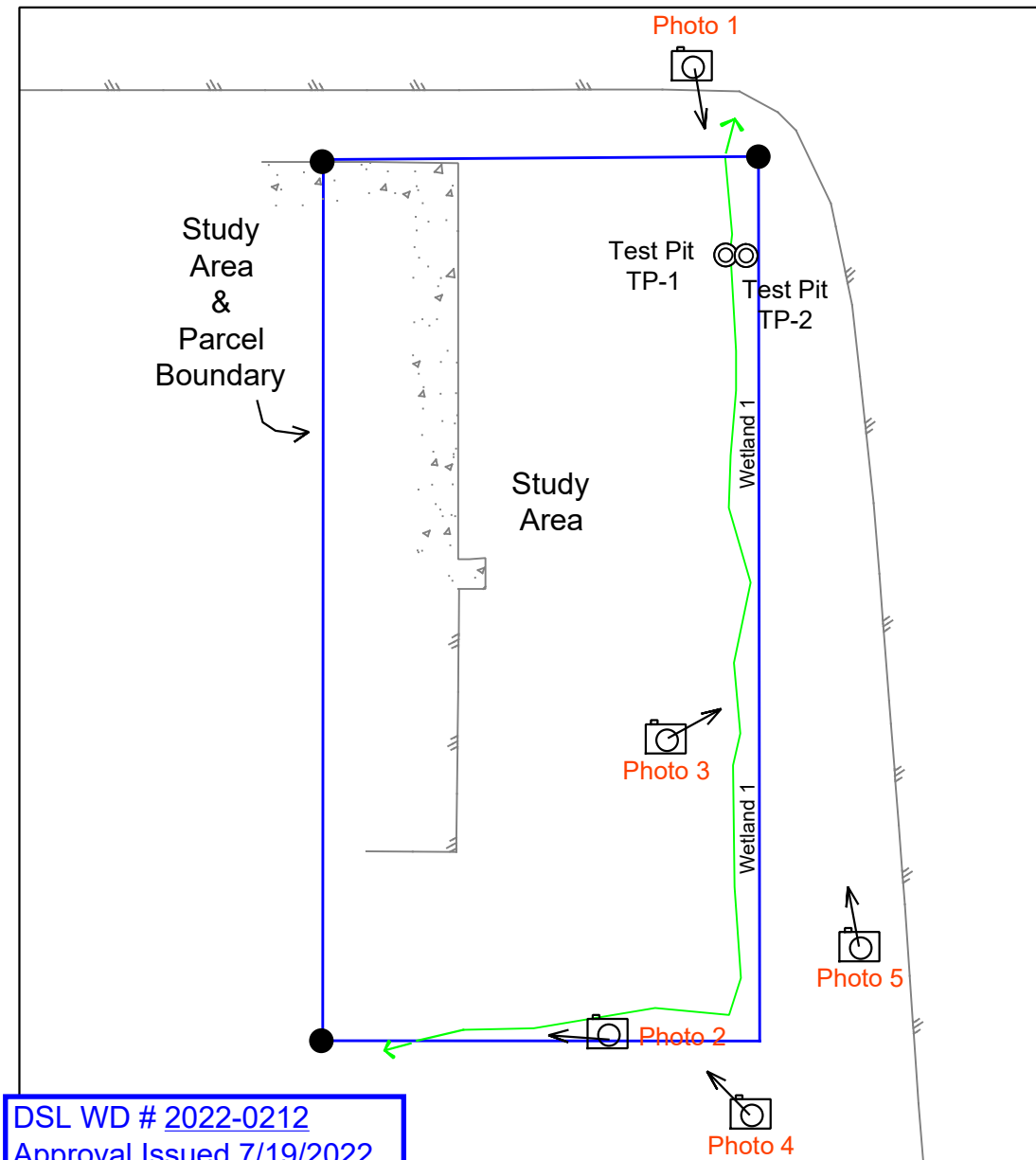
FIGURE 2: Tax Lot Map

Project: Ecola Square Condominiums
 Map Nos.: 51030AA04402
 Address: Not Assigned, E. 1st and Spruce Street
 County: Clatsop County

Field Date(s): March 10, 2022
 Drawing By: RSB
 Drawing Date: 3/16/22
 Report Title: Wetland Delineation

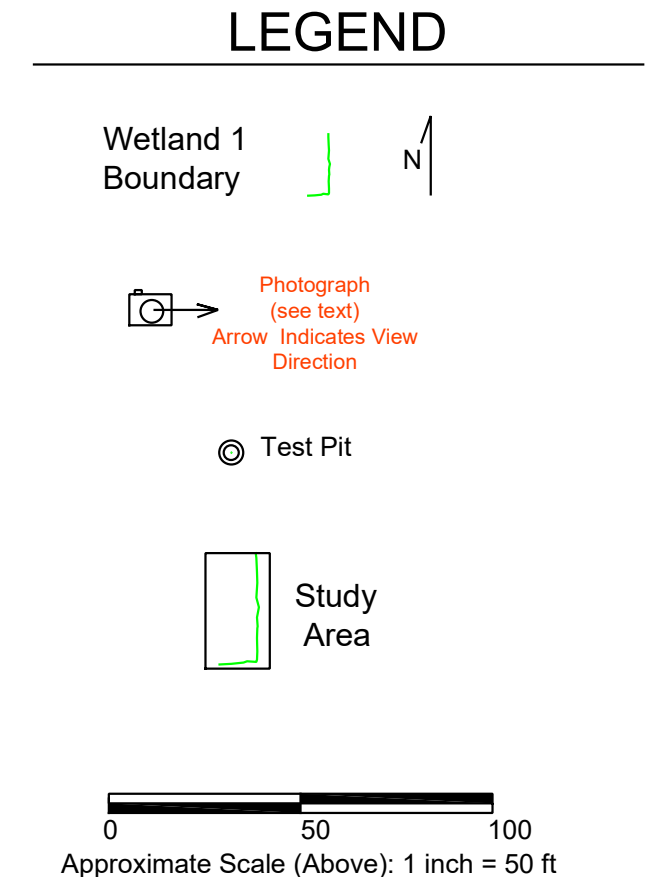
Critical
 Areas
 Consulting





DSL WD # 2022-0212
Approval Issued 7/19/2022
Approval Expires 7/19/2027

FIGURE 6: Wetland Delineation Map

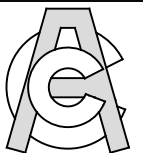


Notes: Wetland boundary flagging and data plots (test pits), were located in the field by S & F Land Services accurate to about +0.1 ft. The study area was defined using parcel boundaries and is accurate to within about 0.1 feet. Wetlands in the Study Area cover 1,298 SF (0.030 acres) accounting for about 7.0% of the 0.42 acre study area and are considered depressional palustrine emergent wetlands. Delineated wetlands continue off site to the north, east, and south.

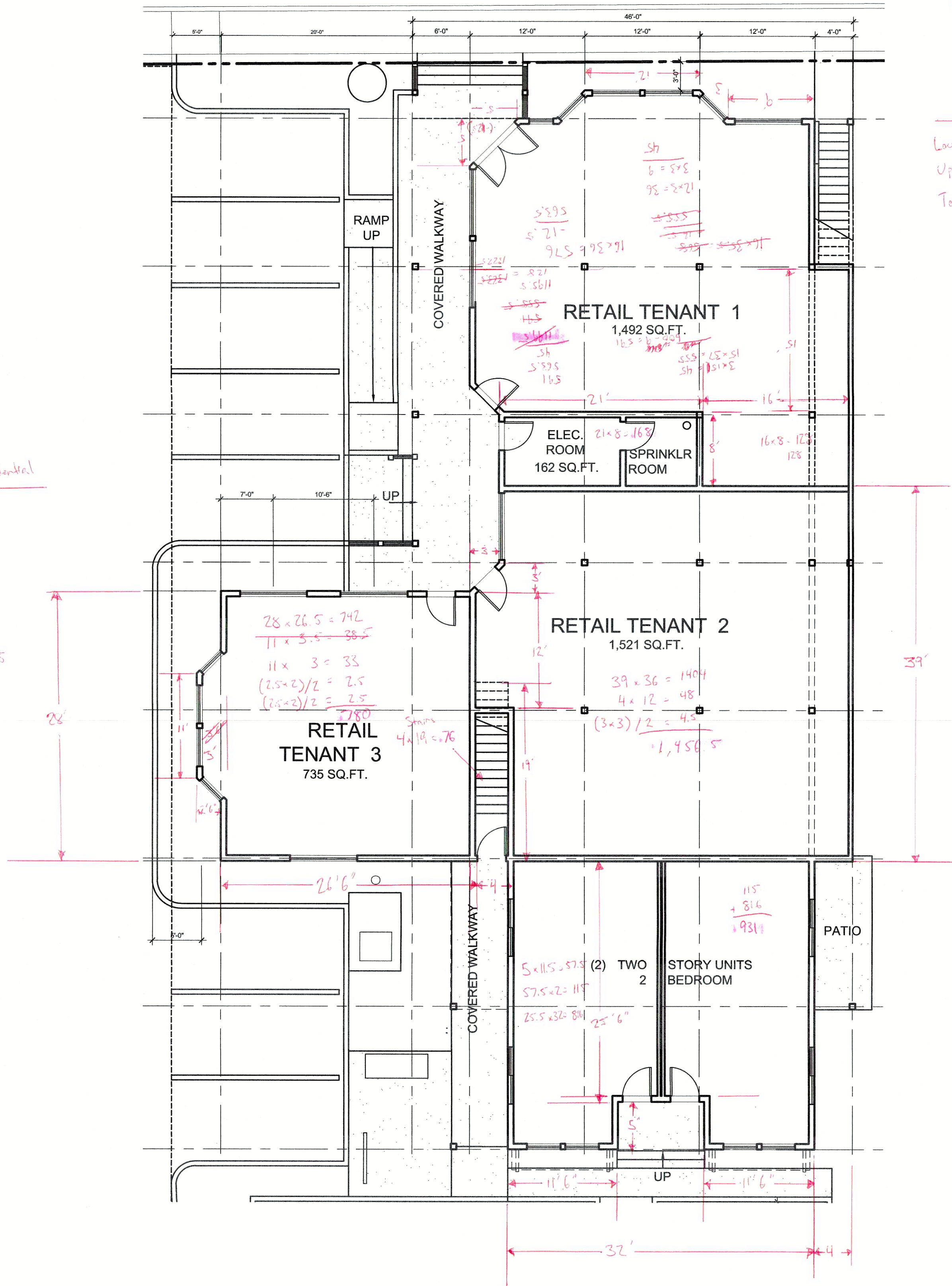
Project: Ecola Square Condominiums
Map Nos.: 51030AA04402
Address: S Spruce Street and E 1st Street
Jurisdiction: Cannon Beach, OR

Field Date(s): March 10, 2022
Drawing By: RSB
Drawing Date: April 14, 2022
Report Title: Wetland Delineation

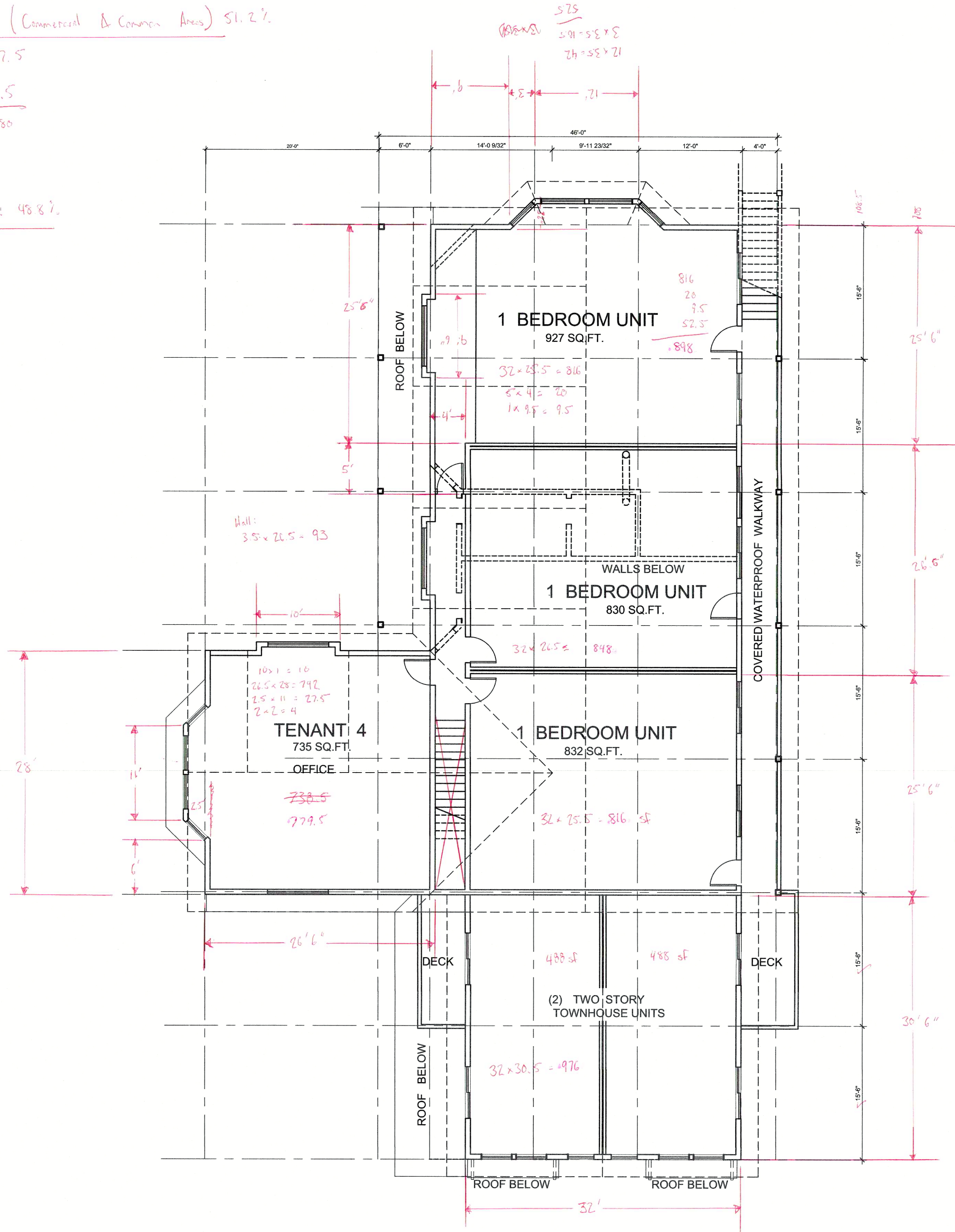
Critical
Areas
Consulting



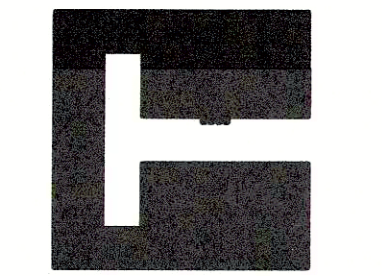
Plotted: 10/10/2023 2:45pm DV
C:\Users\Tolovana\OneDrive\Projects\Active\Pietka Ecologia Housing\ACAD\SHEET SETS\



1 FIRST FLOOR PLAN
A1.2 1/8" = 1'-0"



2 SECOND FLOOR PLAN
A1.2 1/8" = 1'-0"



MARK	DATE	DESCRIPTION

DATE: _____
JOB: XXXXX
FILE: X
DRAWN: _____
CHECKED: _____

COPYRIGHT XXX
2011

Robert St. Clair

From: david@tolovanaarchitects.com
Sent: Friday, March 10, 2023 1:21 PM
To: Robert St. Clair
Subject: First and Spruce Floor Area Analysis
Attachments: FLOOR AREA ANALYSIS 03-10.pdf

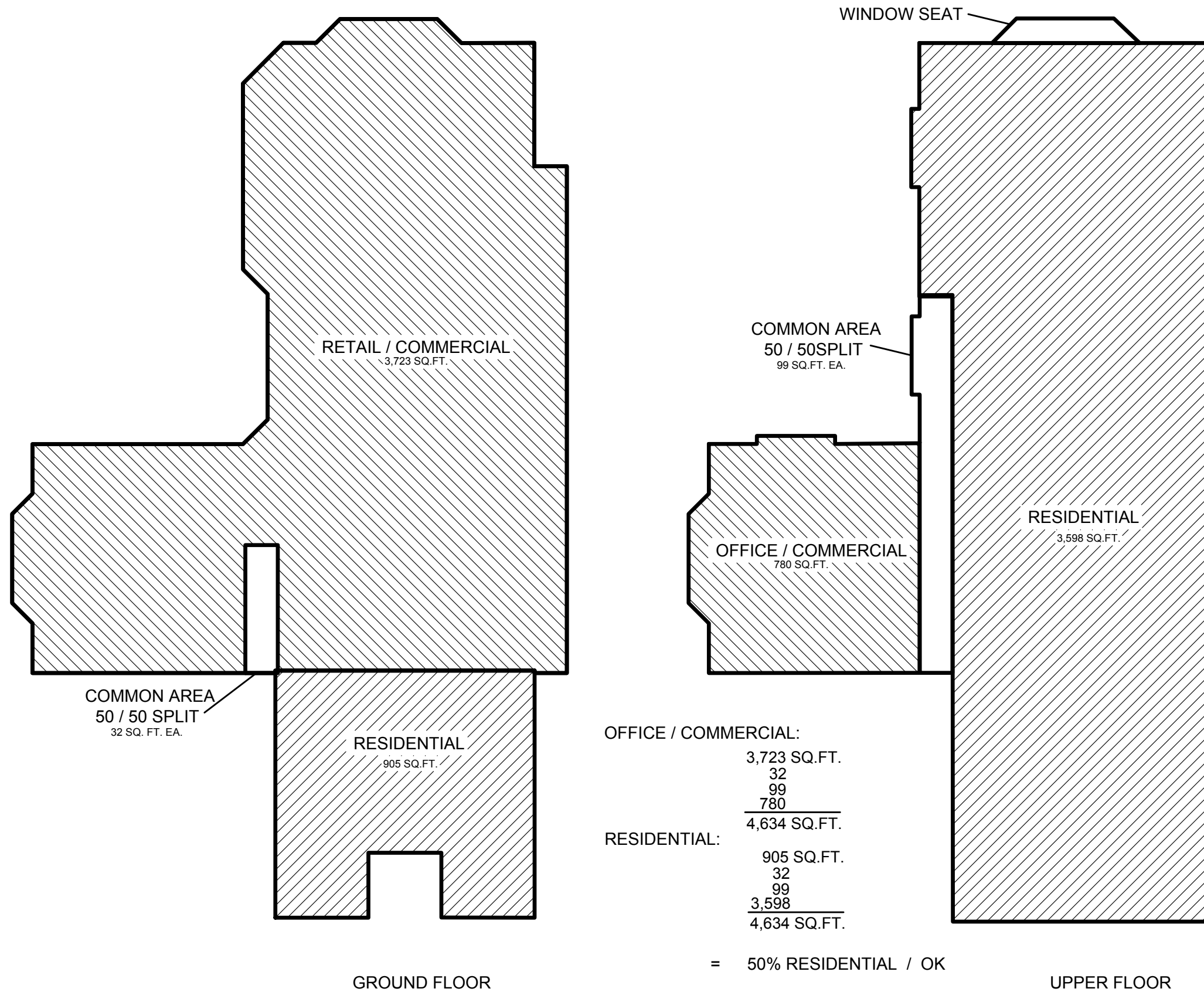
Robert:

Here is my analysis from our AutoCAD drawing showing the ratio between residential and commercial. – It comes up to exactly 50% once I deducted the window seat area at the north end, second floor residence. This has been allowed historically by past planning staff, as long as the window seat does not extend to the floor.

I hope you agree. I will make sure these figures are updated on the floor plans as well.

Thanks!

David Vonada



Robert St. Clair

From: Mark Popkin <mark@popkinre.com>
Sent: Wednesday, March 29, 2023 6:16 PM
To: Robert St. Clair
Subject: 164-22-000264 DWL

Follow Up Flag: Follow up
Flag Status: Completed

Dear Mr St. Clair,

In reference to the above development plan, I own unit #104 at 123 S. Hemlock. As part of that ownership I have a reserved parking spot easement on the above property. I do not see this easement accounted for in the developers plans. I went to great lengths to acquire this easement when I purchased my unit and would not have purchased it if I couldn't have obtained this easement as part of my purchase. Please let me know if I'm incorrect in my understanding. Otherwise, please assure me that this project does not proceed any further without this being addressed.

Regards,
Mark Popkin
503-440-4200
mark@popkinre.com

After Recording, Return to:
Coaster Properties LLC
9770 SW Sunshine Ct.
Beaverton, OR 97005



Recording Instrument #202103576
Recorded By: Clatsop County Clerk
of Pages: 9 Fee: 127.00
Transaction date: 04/09/2021 10:41:28
Deputy: Stethem-Norris

RECORDED BY TIGOR
TITLE INS. CO 360420009411

Situs Address: vacant land at corner of Spruce Street and First Street
Assessor's Account No.: Map 7 (Account ID: 5853)

51030AA04402

PARKING EASEMENT AGREEMENT

THIS PARKING EASEMENT AGREEMENT (this "**Agreement**") is made as of 4/6, 2021 between **COASTER PROPERTIES LLC**, an Oregon limited liability company ("**Coaster**") whose address is 9770 SW Sunshine Ct., Beaverton, Oregon 97005, and Mark Popkin ("**Popkin**") whose address is 496 10th Street, Lake Oswego, Oregon 97034-2925.

RECITALS

A. Coaster is the owner of the real property in Clatsop County, Oregon described on the attached Exhibit A (the "**Coaster Property**").

B. As of the date of this Agreement, Popkin has acquired from Coaster the real property in Clatsop County, Oregon described on the attached Exhibit B (the "**Popkin Property**"). In connection with such acquisition, Popkin and Coaster wish to establish an easement for Popkin to use one (1) parking space on the Coaster Property, on the terms set forth in this Agreement.

AGREEMENTS

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Grant of Easement.** Coaster grants to Popkin, for the benefit of the Popkin Property, a perpetual, nonexclusive easement (**Easement**) for the owner of the Popkin Property to park a vehicle in one (1) designated parking space (the **Parking Space**) on the Coaster Property, as the location of such Parking Space on the Coaster Property is designated from time to time by Coaster. Initially the Parking Space shall be the space identified as #20 on the drawing attached as Exhibit C. Popkin acknowledges and agrees that nothing in this Agreement

shall prohibit or limit Coaster, its successors and assigns from developing and using the Coaster Property at any time as Coaster, its successors and assigns desire or deem appropriate. Coaster, its successors and assigns may increase or reduce the number of parking spaces on the Coaster Property at any time but may not eliminate all or any portion of the Parking Space without the prior express written consent of the Grantee, which consent may be withheld, conditioned or delayed in such Grantee's discretion. Coaster, its successors and assigns may change the location of the Parking Space on the Coaster Property at any time upon advance notice to Popkin, its successors and assigns of such new location on the Coaster Property of the Parking Space, which Parking Space in its new location shall be paved and substantially comparable in size to the Parking Space prior to such change in its location. The owner of the Popkin Property shall maintain, or cause to be maintained, in reasonable and professional looking appearance from time to time the pavement marking on the Parking Space denoting that the Parking Space is Reserved for Unit 104. Any vehicle unauthorized by the owner of the Popkin Property that is parked in the Parking Space may be towed at the discretion of the owner of the Popkin Property, in which event, the costs and expenses of any such towing will be paid by the owner of the unauthorized vehicle. The Easement is appurtenant to the Popkin Property.

2. **Payment.** In consideration of the granting of the Easement, Popkin agrees to pay to Grantor the sum of \$7,295.00 not later than date of this Agreement.

3. **Damage.** In the event of damage to the Parking Space or any other portion of the Coaster Property caused by Popkin, or Popkin's agents, employees, tenants, invitees, contractors or licensees, Popkin shall be solely responsible for repairing the damage.

4. **Indemnification.** Popkin shall forever defend, indemnify, reimburse, and hold Coaster harmless for, from and against any claim, loss or liability arising out of the use of the Parking Space or any other portion of the Coaster Property by Popkin or Popkin's agents, employees, tenants, guests, invitees, contractors or licensees. Popkin assumes all risk arising out of use of the Parking Space.

5. **Benefits and Burdens.** The benefits and burdens of the Easement and covenants contained in this Agreement shall run with the property so benefited or burdened. including any division or partition of such property. The rights, covenants and obligations contained in this Agreement shall bind, burden and benefit each party's successors and assigns, lessees, mortgagees (or beneficiaries under a deed of trust) as to the Popkin Property or the Coaster Property, or any portion thereof, as the case may be. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof.

6. **General Provisions.**

6.1 **Waiver.** Failure at any time to require performance of any provision of this Agreement shall not limit a party's right to enforce the provision. Any waiver of any breach of any provision shall not be a waiver of any succeeding breach or a waiver of any provision of this Agreement.

6.2 **Breach of Obligations.** In the event of any breach of the provisions of this Agreement, the aggrieved party or parties shall be entitled to exercise any remedy provided by law or equity, including the remedies of injunction and/or specific performance.

6.3 **Attorneys' Fees.** In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on appeal of such suit or action, and on any petition for review, in addition to all other sums provided by law.

6.4 **Notices.** Notices under this Agreement shall be in writing and shall be deemed effective when actually delivered. If mailed, a notice shall be deemed effective on the third day after deposited as registered or certified mail, postage prepaid, directed to the other party at the address shown above. Either party may change its address for notices by at least 15 days' advance written notice to the other.

6.5 **Amendments.** This Agreement may not be modified, amended, or terminated except by the written agreement of both parties.

6.6 **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the State of Oregon.

6.7 **Not a Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Coaster Property to the general public or for the use of the general public, and the easement granted herein shall be strictly limited to and for the purposes expressed herein.

6.8 **Status of Title.** This Agreement is subject to all prior liens, easements and other encumbrances and matters of record. Coaster reserves the right to grant other easement rights in and to the Parking Space provided that such easement rights do not unreasonably interfere with the easement rights granted in this Agreement.

IN WITNESS WHEREOF, Coaster and Popkin have executed this Agreement as of the date first above written.

Coaster:

Coaster Properties LLC,
an Oregon limited liability company

By: Richard M. Clark
Richard M. Clark, Manager

Popkin:

Mark Popkin
Mark Popkin

6.2 **Breach of Obligations.** In the event of any breach of the provisions of this Agreement, the aggrieved party or parties shall be entitled to exercise any remedy provided by law or equity, including the remedies of injunction and/or specific performance.

6.3 **Attorneys' Fees.** In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on appeal of such suit or action, and on any petition for review, in addition to all other sums provided by law.

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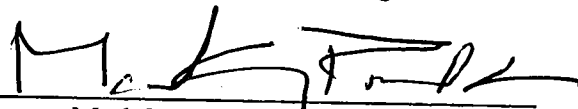
IN WITNESS WHEREOF, Coaster and Popkin have executed this Agreement as of the date first above written.

Coaster:

**Coaster Properties LLC,
an Oregon limited liability company**

By: _____
Richard M. Clark, Manager

Popkin:



Mark Popkin

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

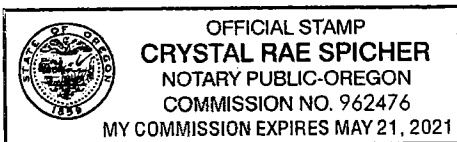
personally appeared Richard M. Clark, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF OREGON)
COUNTY OF Clackamas) ss.

This instrument was acknowledged before me this 1 day of April, 2021 by Mark Popkin.



Carol Ralspacher
Notary Public
My commission expires: May 21, 2020

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

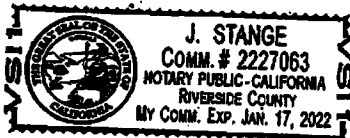
County of Riverside

On April 2, 2021, before me, J. Stange, Notary Public, personally appeared Richard M. Clark

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



A handwritten signature in cursive script, appearing to read "J. Stange", written over a horizontal line.

Notary Public in and for
State of California
County of Riverside

Description of attached document: Parking Easement Agreement

Date of document: 4-6-2021

Number of pages: 4 (excluding this page and attachments)

Additional Information:

Capacity claimed by signer: Individual ☐ Trustee ☐ Attorney-in- Fact ☐

Corporate Officer ☐ Partner-Limited/General ☐ Other: Manager

EXHIBIT A

Legal Description of the Coaster Property

A portion of that property conveyed to Coaster Properties, LLC in Instrument No. 200314305, and to Ecola Square Properties, LLC in Instrument No. 200609650, Clatsop County Deed Records, being more particularly described as follows:

Commencing at the Southwest corner of Block 5, First Addition to Brooklyn;

Thence South $89^{\circ}57'00''$ East along the Southerly line of said Block 5 a distance of 149.28 feet to a point being marked by a 5/8" rebar with yellow plastic cap stamped "HLB & ASSOC, INC." and being the **True Point of Beginning**;

Thence North $00^{\circ}03'00''$ East a distance of 192.70 feet to a point being marked by a 5/8" rebar with yellow plastic cap stamped "HLB & ASSOC. INC." being on the Southerly right-of-way line of First Street;

Thence North $89^{\circ}38'00''$ East along said Southerly right-of-way line a distance of 95.09 feet to a point being marked by a 5/8" rebar with yellow plastic cap stamped "R. Larson LS 2102";

Thence South $00^{\circ}05'24''$ East a distance of 193.40 feet to a point being marked by a 5/8" rebar with yellow plastic cap stamped "R. Larson LS 2102" being on the Southerly line of the aforesaid Block 5;

Thence North $89^{\circ}57'00''$ West along said Southerly line a distance of 95.56 feet to the **True Point of Beginning**.

Containing .42 acres, more or less.

Situated in the Northeast quarter of Section 30, Township 5 North, Range 10 West of the Willamette Meridian, County of Clatsop, State of Oregon.

EXHIBIT B

Legal Description of the Popkin Property

Unit 104, ECOLA SQUARE CONDOMINIUM, in the County of Clatsop, State of Oregon; together with the undivided interest in the general and limited common elements appurtenant thereto, as more fully set forth and described in the Declaration of Unit Ownership recorded July 11, 2007 as Instrument No. 200707303, Clatsop County Records, which description is incorporated herein and by reference made a part hereof.

EXHIBIT C

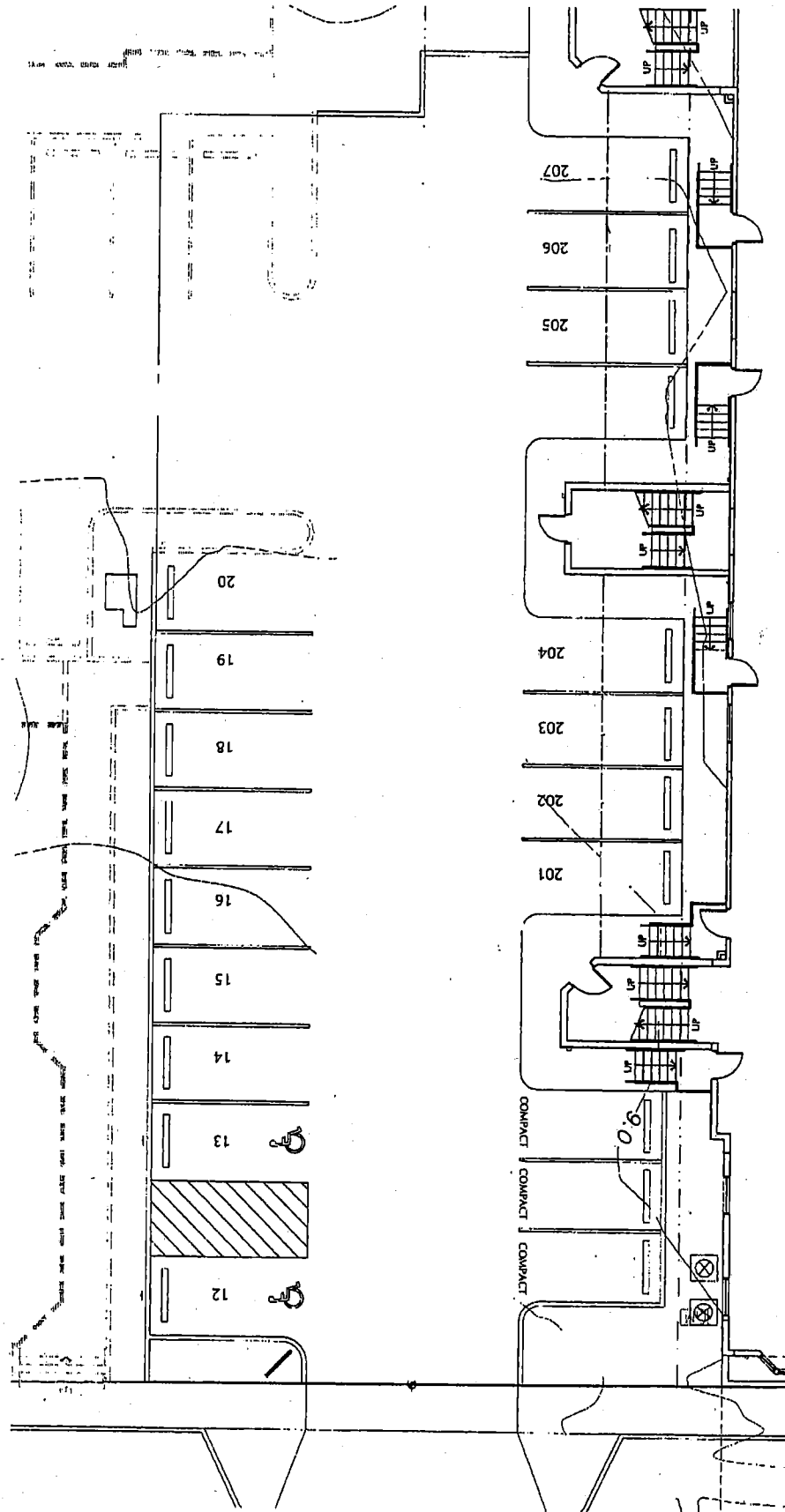


Exhibit C

Robert St. Clair

From: dave pietka <dpietka@msn.com>
Sent: Thursday, April 20, 2023 7:54 AM
To: mark@popkinre.com; Robert St. Clair; David Vonada
Subject: Parking easement at first and spruce

Mark, your parking easement will be 100% honored and not infringed on by the new project.

Call me if you need to discuss further.

Thanks, David Pietka 5032061071

Sent from my iPad

Robert St. Clair

From: dave pietka <dpietka@msn.com>
Sent: Thursday, April 20, 2023 8:31 AM
To: Jay Orloff; Jamie Lerma; Robert St. Clair; mark@popkinre.com
Subject: Popkin easement
Attachments: dep420.pdf

David—Per your suggestion I have sent an email to Mark about his easement. I indicated to him that his easement will be 100% honored. Per the first paragraph on the top of page two of the easement, my project will increase the number of spaces on the property, and our parking count will exceed code requirements. The easement gives me rights to “change the location of the space” with notice to Mark. I will provide notice to Mark if and when it is necessary to move the location of the space during and after construction. The new location will be paved and comparable in size. I am instructing my contractor Jamie Lerma to work with Mark in an appropriate manner and honor mark’s rights at all times in a timely and professional manner. I have suggested to Mark that he can reach out to me if he has concerns.

As needed, please share this information with anyone with concerns.

Robert, since Mark’s letter regarding this issue made it to public record, please enter this letter into public record as well.

Thanks,

David Pietka
503-206-1071

177970-5.12 0 6255-1.1 1oz

Reference ID:50877611 | PIN:08da6b



DAVID PIETKA
3514 NE US GRANT PL
PORTLAND OR 97212



Notice Date: April 13, 2022

Loan Number: 302608-36

INSURANCE REMINDER

Please provide insurance information for: 122 W WASHINGTON ST

We are contacting you to request your assistance because our records show your hazard insurance for your property expired. Please take a moment to provide us with evidence that your insurance has renewed or you have obtained new insurance coverage effective 04/07/2022 or earlier.

As a reminder, your mortgage loan contract requires that your property is continuously insured against hazard losses throughout the entire term of your loan. If we do not receive acceptable evidence of the required insurance, it may become necessary to protect our interest by purchasing insurance for you. You must pay us for any period during which the insurance we buy is in effect but you do not have insurance.

We strongly encourage you to provide your own insurance, as the insurance we may buy:

- May be significantly more expensive than insurance you can buy yourself.
- May not provide as much coverage as an insurance policy you buy yourself.

You should immediately provide us with your insurance information. Please provide written proof that you have a hazard insurance policy to protect your property. You or your insurance agent may provide an updated insurance policy to us.

Please refer to the following primary insurance requirements:

- Continuous insurance coverage with no lapses
- Unitus Community Credit Union named as mortgagee or loss payee
- Policy deductible not greater than \$5000 or 2%
- Coverage limit equal to your replacement cost

How to Provide Your Insurance:

Upload: www.MyLoanInsurance.com/unitusccu

Email: unitusccu@myloaninsurance.com

This is an automated email account and only emails with file attachments in PDF, PNG, TIF or JPG formats can be accepted.

Fax to: 1-877-872-9489

Mail to: Unitus Community Credit Union
Insurance Tracking Center
PO Box 429
Portland, OR 97207

Thank you in advance for your cooperation and prompt response.
| Have a question? Call 1-877-869-1026 (24 Hour Automated Service) |

49N NLC REN





CITY OF CANNON BEACH

April 7, 2023

AA#23-02, Mike Bates administrative appeal of the City's approval of a development permit, DP#23-10, for the construction of a mixed-use building at the intersection of First and Spruce Streets, Taxlot# 51030AA04402, a Limited Commercial (C1) zoned property. The request will be reviewed pursuant to Municipal Code section 17.88.180, Review Consisting of Additional Evidence or De Novo Review and applicable sections of the zoning ordinance.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 150 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 150 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, April 27, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

AA#23-02, Mike Bates administrative appeal of the City's approval of a development permit, DP#23-10, for the construction of a mixed-use building at the intersection of First and Spruce Streets, Tax lot# 51030AA04402, a Limited Commercial (C1) zoned property. The request will be reviewed pursuant to Municipal Code section 17.88.180, Review Consisting of Additional Evidence or De Novo Review and applicable sections of the zoning ordinance.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Robert St. Clair, 503-436-8041, or at st.clair@ci.cannon-beach.or.us.

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.

Posted/Mailed: 4/7/23



Robert St. Clair
City Planner

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • www.ci.cannon-beach.or.us

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



Disclaimer: The information contained in this GIS application is NOT AUTHORITATIVE and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Cannon Beach assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Cannon Beach provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.

SITUS_ADDR	OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
223 S Hemlock St	Pig N Pancake Inc	PO Box 9	Seaside	OR	97138-0009
107-115 Hemlock St N	115 N Hemlock LLC	PO Box 1696	Beaverton	OR	97075
315 S Spruce St #B	Verizon Wireless	PO Box 2549	Addison	TX	75001
315 S Spruce St #A	New Cingular Wireless PCS LLC	754 Peachtree St NE #16th Floor	Atlanta	GA	30308
207 N Spruce St	Cannon Beach Chamber/Commerce	PO Box 64	Cannon Be	OR	97110-0064
	Dauidspruce LLC	3514 NE US Grant PL	Portland	OR	97212
123 S Hemlock St #201	Wagers G David TR	32047 NW Redhaven St	Hillsboro	OR	97124
123 S Hemlock St #102	Harwichportwest LLC	20345 SW Pacific Hwy #202	Sherwood	OR	97140
123 S Hemlock St #204	Horns Roey	402 W Howe St	Seattle	WA	98119
123 S Hemlock St #106	Coaster Properties LLC	9755 SW Barnes Rd #440	Portland	OR	97225
123 S Hemlock St #205	Grossman Karen G	4832 NW Promenade Ter #319	Portland	OR	97229
123 S Hemlock St #207	Matthies Rich	1016 141st Pl NE	Bellevue	WA	98007-4022
123 S Hemlock St #103	Bieze Property Investors LLC	1118 Northshore Rd	Lake Oswego	OR	97034
123 S Hemlock St #101	Joy Investment LLC	13207 11th Pl NW	Seattle	WA	98177
123 S Hemlock St #104	Popkin Mark	496 10th St	Lake Oswego	OR	97034
123 S Hemlock St #203	Parnell Marvin R	PO Box 994	Cannon Be	OR	97110
123 S Hemlock St #206	Lietz Charles D	311 NW 12th Ave #702	Portland	OR	97209
123 S Hemlock St #202	Paulson Lawrance Lee	8910 NW Lakeshore Ave	Vancouver	WA	98665



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF SR#23-05 AND VAC#23-01 FOR THE PURPOSE OF REDUCING THE REQUIRED SETBACK IN ORDER TO CONSTRUCT A COVERED ENTRANCE CANOPY AND PROVIDE SPACE FOR REQUIRED OFF-STREET PARKING. THE PROPERTY IS LOCATED AT 268 BEAVER AVE. (TAX LOT# 4000, 4100, 4101, 4200, AND 4301, MAP 51020CB) IN AN INSTITUTIONAL (IN) ZONE. THE REQUEST WILL BE REVIEWED UNDER MUNICIPAL CODE SECTION 17.64 SETBACK REDUCTION AND SECTION 12.32, STREET AND ALLEY VACATION, PROVISIONS ESTABLISHED.

Agenda Date: April 27, 2023

Prepared By: Robert St. Clair, Planner
Community Development Department

GENERAL INFORMATION

NOTICE

Public notice for this April 27, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on April 7, 2023;
- B. Notice was mailed on April 7, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on March 30, 2023 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1 Setback reduction application SR#23-01, submitted March 30, 2023;
- A-2 Setback reduction supplemental narrative, submitted April 14, 2023;
- A-3 Street vacation application, submitted March 30, 2023;
- A-4 Street vacation supplemental narrative, submitted April 14, 2023;
- A-5 Applicant Exhibit A Site Plan, submitted April 14, 2023;
- A-6 Applicant Exhibit B Existing Conditions, submitted April 14, 2023;
- A-7 Applicant Exhibit C Proposed Site Plan, submitted April 14, 2023;
- A-8 Applicant Exhibit D Neighbor RV Parking diagram, submitted April 14, 2023;
- A-9 Applicant Exhibit E Project Description, submitted April 14, 2023;
- A-10 Applicant Exhibit F Legal Description for Proposed ROW Vacation, submitted April 14, 2023;
- A-11 Applicant Exhibit G Legal Description for Proposed Access Easement, submitted April 14, 2023;

“B” Exhibits – Agency Comments

None received as of this writing;

“C” Exhibits – Cannon Beach Supplements

None received as of this writing;

“D” Exhibits – Public Comment

Non received as of this writing;

SUMMARY & BACKGROUND

CIDA, on behalf of the City of Cannon Beach, is seeking a setback reduction of the front portion of the property facing Beaver St. and the vacation of a portion of the Beaver St. right-of-way. The purpose of the setback reduction is to accommodate planned pedestrian improvements and amenities for the former elementary school’s adaptive reuse project. The vacation proposal is intended to remedy issues relating to pedestrian access and provide a location for off-street parking to be provided at the property.

The current structure is a pre-existing non-conforming use which is built out the property’s southern boundary line. Planned pedestrian improvements include new and wider sidewalks along the north side of Beaver St. and an entry pavilion that will be located along the front of the gym building and a planned addition that will connect the gym to the classroom building. A change in the setback requirements will also increase the amount of space between the building’s entrance and sidewalks and vehicle traffic on Beaver St.

The vacation will provide a location where off-street parking requirements can be met without necessitating significant alterations to the site plan or using space north of the structures to provide parking. In January 2023 the Commission approved an off-street parking variance (V#23-01) which reduced the number of required off-street parking stalls from 31 to 7. During that public hearing the Commission heard the applicant’s intention to place angled parking along the Beaver St. in conjunction with modification to that street’s right-of-way. The applicant’s plan, shown on Exhibit A-5 (Applicant’s Exhibit A) shows 7 angled parking spaces adjacent to Beaver St. with two of those spaces being ADA accessible.

APPLICABLE CRITERIA

Chapter 17.36.040 Institutional (IN) Zoning District, Standards

In an IN zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

- A. Setbacks. Structures adjoining another zone or public right-of-way shall be set back twenty-five feet. No parking shall be permitted in this setback. Existing structures, at the time of adoption of the ordinance codified in this title, shall maintain their setbacks. Where parking occurs in the setback area, such use may continue.*
- B. Building Height. Maximum height of a structure is twenty-eight feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed thirty-six feet.*
- C. Signs. As allowed by Chapter 17.56.*
- D. Parking. As allowed by Section 17.78.020.*

E. *Access. The provision of consolidated street access points shall be considered in site design. Street access should be located to minimize the impact on adjacent residential areas.*

F. *Design Review. All uses shall be evaluated under Chapter 17.44, Design Review Procedures and Criteria.*

Staff Comment: The structures currently present are pre-existing non-conformities that were constructed prior to the adoption of the Comprehensive Plan and the zoning ordinances that implement it and provide little in the way of a setback from Beaver St. The proposed changes to the Beaver St. right-of-way will not provide an adequate amount of space to make the structure compliant with current standards. However, even with the proposed entry area the setback would be increased to a total of 15 feet which would be a significantly larger setback than that currently present.

Off-street parking requirements are being addressed through Variance V#23-01 which was approved by the Planning Commission in January 2023 and the street vacation application that accompanies this setback reduction application.

Other criteria of the IN zone's development standards, such as Design Review requirements and signage will be addressed at a later date as the revitalization project's plans have not yet been finalized.

17.64, Setback Reduction

17.64.010.A.1: *Total building coverage shall not exceed forty percent.*

Staff Comment: The applicant's materials state that the site is 113,512 square feet and that the site is developed with the following buildings:

- Classroom building: 2,940 sf
- Gym building: 7,415 sf
- Food bank: 1,917 sf
- Planned addition: 2,170 sf

The total square footage will be 14,442 square feet which comes to approximately 12.7% building coverage. Meets criteria.

17.64.010.A.2: *Significant view of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district.*

Staff Comment: There are no identified significant impacts to any views of the ocean, mountains, or other features as a result of this proposal. Meets criteria.

17.64.010.A.3: *The proposed building location will not interfere with solar access of buildings on adjoining property.*

Staff Comment: There are no identified significant impacts to solar access for adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.4: *It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the Planning Commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:*

- a. *Tree protection,*

- b. *The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. *The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*
- d. *The provision of solar access,*
- e. *Permitting construction on a lot with unusual configuration,*
- f. *Rehabilitation of existing buildings where other reasonable alternatives do not exist,*
- g. *Protection of a wetland or wetland buffer area, or*
- h. *Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.*

Staff Comment: There are no identified significant impacts to privacy, drainage, light, air, noise reduction, and fire safety for adjacent property owners as a result of this proposal. Criterion f, *Rehabilitation of existing structures where other reasonable alternatives do not exist*, applies to the entrance pavilion that is planned to be constructed in the front setback area. The applicant's materials indicate that the pavilion's location in the existing breezeway is the only practical location given the limitations of the site that can provide a safe primary entrance. Meets criteria.

17.64.010.A.5: *Adjacent rights-of-way have sufficient width for utility placement or other public purposes.*

Staff Comment: The applicant's materials state that the City's Public Works department has been consulted regarding this proposal and no concerns have been raised regarding impacts to public utility placement. Meets criteria.

17.64.010.A.6: *The reduction would not create traffic hazards; or impinge upon a public walkway or trail.*

Staff Comment: The applicant's materials state that the proposed setback reduction, in combination with the proposed street vacation, would result in the creation of additional space between structures on the subject property and vehicle traffic while improving pedestrian access. Meets criteria.

17.64.010.A.7: *Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property.*

Staff Comment: There are no identified significant changes to the amount of privacy enjoyed by adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.8: *The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.*

Staff Comment: There are no identified significant impacts to the ability to provide fire protection to the site's buildings or surrounding structures as a result of this proposal. Meets criteria.

Chapter 12.32 Street and Alley Vacation

12.32.010 Statutory requirements.

A request to vacate all or part of any street or alley shall be reviewed by the city in accordance with the requirements of ORS 271.005—271.160. (Ord. 90-11 § 1(1))

12.32.020 Planning commission recommendation.

The city council shall receive a recommendation from the planning commission before holding a public hearing on a request for a street vacation. (Ord. 90-11 § 1(2))

12.32.030 Review criteria.

In reviewing a petition for a street vacation, the planning commission and city council shall base their recommendation and decision on the conformance of the petition with the following criteria:

- A. The request is not in conflict with the comprehensive plan.

Staff Comment: The applicant's materials indicate that the request supports the goals of the Comprehensive Plan, specifically policy #7 of the Downtown Policies which states: *The City shall continue to encourage and promote improvements to Downtown Streets and sidewalks necessary to enhance pedestrian use and safety.* The proposed design would provide an opportunity to provide a higher level of service to pedestrians in the area and accommodate anticipated increases in pedestrian traffic by persons the tourism-oriented facility. It is noted that as the site will have a relatively low level of off-street parking the majority of visitors will arrive on foot or by public transit. This is consistent with the Comprehensive Plan's vision statement which requires the fostering of visually attractive commercial areas that incorporate a high degree of pedestrian amenities. Meets criteria.

- B. There is a valid public purpose for the street vacation. Returning the vacated street to the tax rolls shall not be considered sufficient to establish a valid public purpose.

Staff Comment: This request follows the Planning Commission's approval of the off-street parking variance in V#23-01 that reduced the required level of parking from 31 to 7 stalls. That application was approved with the understanding that the Beaver St. right-of-way would be reconfigured to accommodate the required parking in a way that does not necessitate creating a parking area north of the facility's structures. Meets criteria.

- C. The request will not adversely affect the provision of public facilities and services.

Staff Comment: The rejuvenation project is intended to support tourist related functions and support local community interests such as outdoor recreation, provision of even space, and preservation of local cultural history. The facility would be positively affected by this request and providing enhanced access to the site. Meets criteria.

- D. The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.

Staff Comment: The applicant's material state that the vacation requested is adjacent to an existing gravel driveway serving two single-family residential properties. The City has collaborated with the owners of two affected properties to develop an access easement that would ensure that access to these properties would not be negatively impacted. Meets criteria.

- E. Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless an equivalent or improved public access is provided. (Ord. 90-11 § 2)

Staff Comment: The N. Beaver St. area does not provide direct access to ocean beaches or the Ecola Creek estuary. The planned improvements that would result from this vacation would improve access to the estuary and beaches to the north and west of the subject property by making those areas more accessible to pedestrians. Meets criteria.

PROCEDURAL REQUIREMENTS

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The application was submitted on March 30, 2023 and determined to be complete on April 14, 2023. Based on this, the City must complete its review of this proposal by August 12, 2023.

The Planning Commission's April 27th hearing will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to the hearing to request a continuance. The Planning Commission should grant any request for a continuance of this hearing. The Planning Commission's next regularly scheduled hearing date is May 25, 2023.

RECOMMENDATION

Staff recommends approval, with the conditions below.

DECISION AND CONDITIONS

Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (approve/approve with conditions/or deny) the CIDA application for a setback reduction, **SR# 23-05**, as discussed at this public hearing (subject to the following conditions):

1. A building permit shall be obtained before starting construction.

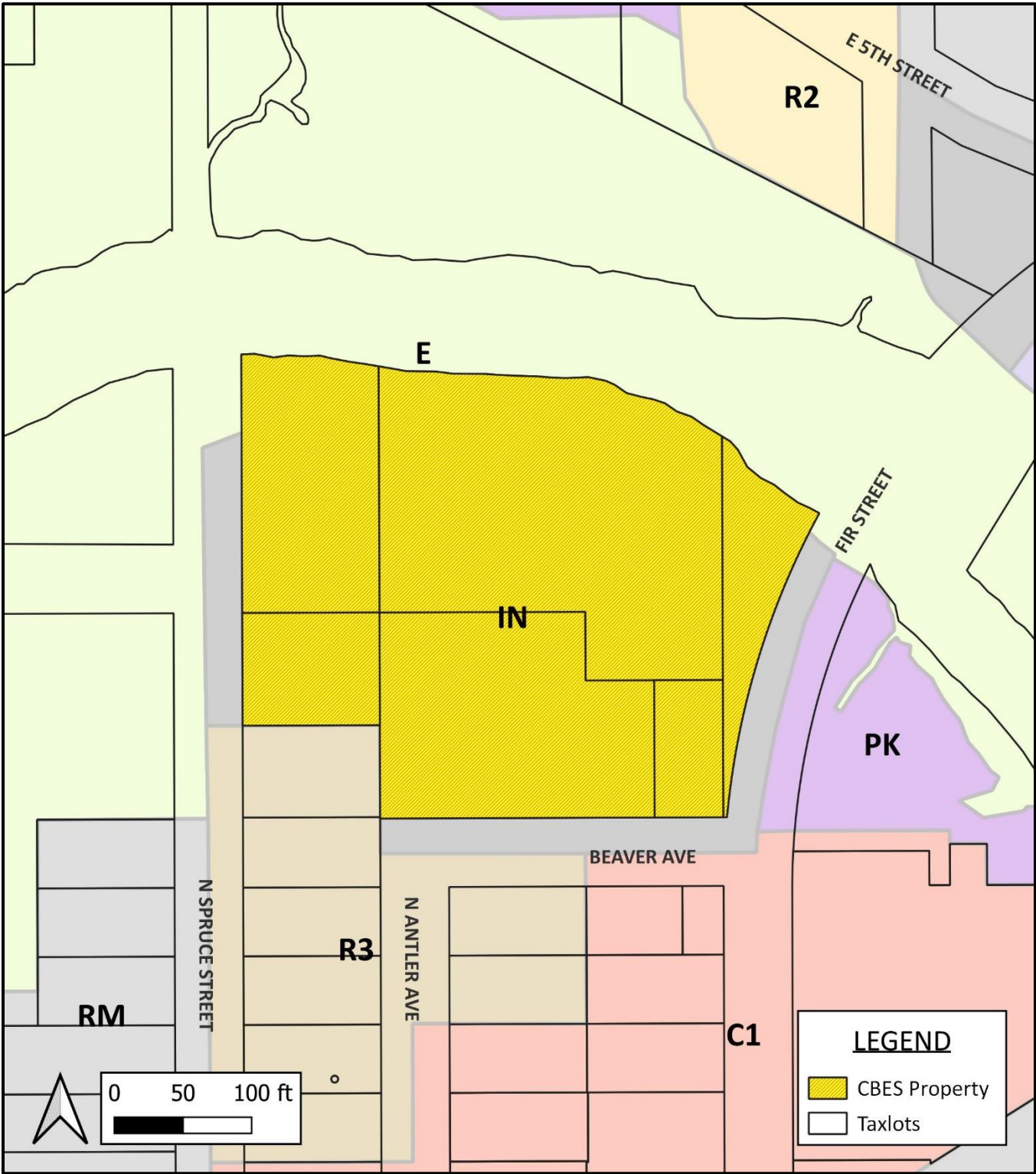
Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (recommend/not recommend) to City Council the CIDA application for a setback reduction, **VAC# 23-01**, as discussed at this public hearing.

Notice of Approval

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15)

Site Map with Zoning Information: SR#23-05, VAC#23-01





CITY OF CANNON BEACH

SETBACK REDUCTION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: Kelly Douglass
 Email Address: kellyd@cidainc.com
 Mailing Address: 15895 SW 72nd Ave, Suite 200, Portland, OR 97224
 Telephone: 503.226.1285

Property-Owner Name: City of Cannon Beach
 (if other than applicant)

Mailing Address: 163 E Gower Ave, Cannon Beach, OR 97110

Telephone: 503.436.1581

Property Location: 268 Beaver St, Cannon Beach, OR 97110
 (street address)

Map No.: 51020CB Tax Lot No.: 4100, 4101, 4200, 4301, 5700

SETBACK REDUCTION REQUEST:

1. Description of the setback reduction that is being sought.

The Applicant's proposal is to reduce the minimum required front yard setback of 25 ft established by Cannon Beach Municipal Code Chapter 17.36.040.A. The Applicant seeks a reduction to the setback requirement by 10 ft, therefore making the proposed setback a total of 15 ft. The goal for this application is to bring the proposed project closer to compliance with the code than what was already existing on the site while also providing safe and functional pedestrian access and improved amenities for the users of the site. This setback reduction is sought in tandem with a Request for Vacation submitted this date and also for Planning Commission consideration.

2. Description of the proposed building plans pertinent to the setback reduction request.

Please refer to attached Exhibit 'A' for a detailed description of the CBE Rejuvenation Project. Relative to this setback reduction request, Applicant proposes a covered canopy to be located within the minimum 25-foot front yard setback between the existing Gym Building and the N. Beaver Ave right-of-way. The covered canopy is a critical design feature for this adaptive re-use project with multiple benefits, including:

- Offers a means of wayfinding from the SE Entry Plaza to the facility's main entry which is not visible from the plaza due to the existing Gym building's encroachment on the N. Beaver Ave. right-of-way.
- Provides a physical barrier between vehicle traffic on N. Beaver Ave and the SE Plaza/Main Entry pedestrian connection, providing for safer pedestrian access for site users.
- Lowers the physical scale of the Gym Building relative to N. Beaver Ave which, as it exists currently, is not in character of existing or envisioned Downtown Cannon Beach streetscapes.
- Provides a canvas for interpretive signage, a main priority of the Clatsop-Nehalem Tribe and many local residents yearning to learn more about the rich cultural heritage of the site.
- Weather protection for pedestrians.

The proposed covered walkway extends 8 feet further towards N. Beaver Ave than the existing Gym Building does currently, however under a separate application noted above Applicant is seeking a Right-of-Way vacation along N. Beaver Ave. of 18 feet. If approved, the new location of the frontage property line with N. Beaver Ave would result in the proposed covered walkway encroaching 10 feet into the minimum 25 foot front yard setback whereas considering existing conditions the Gym Building is encroaching 20 feet into the required setback.

3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

(a) Total building coverage shall not exceed forty percent;

The proposed building coverage is 12.7%. The site is 113,512 square feet (sf) and the existing food bank is 1,917 sf, the existing classroom building is 2,940 sf, the new addition is 2,170 sf, and the gym building is 7,415 sf. Therefore 14,442sf/113,512 sf is 12.7% of the site and complies with this requirement.

(b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

The reduction of the setback from 25 ft to 15 ft would not affect views of the ocean or mountains from adjacent properties. The three existing buildings are remaining where they are currently located on the site and this reduction helps bring the gym building closer to compliance to the setback requirement as discussed in item #2. The structure proposed to be added within the front yard setback (a covered walkway) is lower than existing buildings to remain and far enough from the single family residential lots to the west that it poses no obstruction to existing views.

(c) The proposed building location will not interfere with solar access of buildings on adjoining property;

The buildings are existing and the proposed covered walkway is low and relatively distant from adjacent properties. No elements are proposed within the requested setback reduction which would interfere with solar access on adjoining properties.

(d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

The existing Classroom Building and Gym Building are culturally significant structures for many local Cannon Beach residents and, as such, preservation of those structures to the fullest extent possible while meeting the City's program requirements for the project has been a main priority. With this in mind, the Applicant proposed several locations for a main entrance to the CBE Rejuvenation Project with the Project's main stakeholders (including the general public, City of Cannon Beach and Clatsop-Nehalem Tribal members) opting for and ultimately approving the current main entry location which is located at the existing breezeway between the two structures. Understanding that a tight and likely unsafe entry sequence due to the Gym's encroachment toward N. Beaver Ave would need to be resolved, there was no better option in meeting the above critical goals for the project.

e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

In meetings with the Public Works department and other City of Cannon Beach stakeholders, there have been no concerns raised regarding the width of the N. Beaver right-of-way as it relates to public utility placement.

f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

The proposed setback reduction in combination with the proposed N. Beaver Ave vacation would result in creating additional space between structures on site and vehicular traffic. Furthermore, the proposed setback reduction and associated request for vacation are for purposes of improving pedestrian access. The benefits of the covered walkway for pedestrian safety and circulation facilitated by this setback reduction are itemized in Section 2 above.

g) Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

There are two abutting properties to the site and both are single family residences located to the west of the Classroom Building. The northernmost of the two residences is situated such that there is no direct line of sight to the proposed covered walkway structure. The southernmost property has a direct line of sight but is located (at its nearest) approximately 100 feet away from the canopy structure. Given the proposed covered walkway's distance from this property and its relatively low height, there is expected to be no reduction in privacy to this residence.


h) The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.

All minimum required fire apparatus access widths are maintained with the proposed setback reduction and no effects to the existing degree of available fire protection for adjacent buildings are expected.

8. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Please see attached site plan (Exhibits 'B' and 'C') which includes all the information above.

Attach additional sheets as necessary.
Setback Application Fee: \$500.00

Applicant Signature:  Date: 03.30.23

Property Owner Signature: _____ Date: _____

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



CITY OF CANNON BEACH

SETBACK REDUCTION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: Kelly Douglass
 Email Address: kellyd@cidainc.com
 Mailing Address: 15895 SW 72nd Ave, Suite 200, Portland, OR 97224
 Telephone: 503.226.1285

Property-Owner Name: City of Cannon Beach
 (if other than applicant)

Mailing Address: 163 E Gower Ave, Cannon Beach, OR 97110

Telephone: 503.436.1581

Property Location: 268 Beaver St, Cannon Beach, OR 97110
 (street address)

Map No.: 51020CB Tax Lot No.: 4100, 4101, 4200, 4301, 5700

SETBACK REDUCTION REQUEST:

1. Description of the setback reduction that is being sought.

The Applicant's proposal is to reduce the minimum required front yard setback of 25 ft established by Cannon Beach Municipal Code Chapter 17.36.040.A. The Applicant seeks a reduction to the setback requirement by 10 ft, therefore making the proposed setback a total of 15 ft. The goal for this application is to bring the proposed project closer to compliance with the code than what was already existing on the site while also providing safe and functional pedestrian access and improved amenities for the users of the site. This setback reduction is sought in tandem with a Request for Vacation submitted this date and also for Planning Commission consideration.

2. Description of the proposed building plans pertinent to the setback reduction request.

Please refer to attached Exhibit 'E' for a detailed description of the CBE Rejuvenation Project. Relative to this setback reduction request, Applicant proposes a covered walkway to be located within the minimum 25-foot front yard setback between the existing Gym Building and the N. Beaver Ave right-of-way. The covered walkway is a critical design feature for this adaptive re-use project with multiple benefits, including:

- Offers a means of wayfinding from the SE Entry Plaza to the facility's main entry which is not visible from the plaza due to the existing Gym building's encroachment on the N. Beaver Ave. right-of-way.
- Provides a physical barrier between vehicle traffic on N. Beaver Ave and the SE Plaza/Main Entry pedestrian connection, providing for safer pedestrian access for site users.
- Lowers the physical scale of the Gym Building relative to N. Beaver Ave which, as it exists currently, is not in character of existing or envisioned Downtown Cannon Beach streetscapes.
- Provides a canvas for interpretive signage, a main priority of the Clatsop-Nehalem Tribe and many local residents yearning to learn more about the rich cultural heritage of the site.
- Weather protection for pedestrians.

The proposed covered walkway extends 8 feet further towards N. Beaver Ave than the existing Gym Building does currently, however under a separate application noted above Applicant is seeking a Right-of-Way vacation along N. Beaver Ave. of 18 feet. If approved, the new location of the frontage property line with N. Beaver Ave would result in the proposed covered walkway encroaching 10 feet into the minimum 25 foot front yard setback whereas considering existing conditions the Gym Building is encroaching 20 feet into the required setback. Please refer to attached Exhibits 'B' and 'C' for the existing and proposed setback conditions.

3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

(a) Total building coverage shall not exceed forty percent;

The proposed building coverage is 12.7%. The site is 113,512 square feet (sf) and the existing food bank is 1,917 sf, the existing classroom building is 2,940 sf, the new addition is 2,170 sf, and the gym building is 7,415 sf. Therefore 14,442sf/113,512 sf is 12.7% of the site and complies with this requirement.

(b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

The reduction of the setback from 25 ft to 15 ft would not affect views of the ocean or mountains from adjacent properties. The three existing buildings are remaining where they are currently located on the site and this reduction helps bring the gym building closer to compliance to the setback requirement as discussed in item #2. The structure proposed to be added within the front yard setback (a covered walkway) is lower than existing buildings to remain and far enough from the single family residential lots to the west that it poses no obstruction to existing views.

(c) The proposed building location will not interfere with solar access of buildings on adjoining property;

The buildings are existing and the proposed covered walkway is low and relatively distant from adjacent properties. No elements are proposed within the requested setback reduction which would interfere with solar access on adjoining properties.

(d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

The existing Classroom Building and Gym Building are culturally significant structures for many local Cannon Beach residents and, as such, preservation of those structures to the fullest extent possible while meeting the City's program requirements for the project has been a main priority. With this in mind, the Applicant proposed several locations for a main entrance to the CBE Rejuvenation Project with the Project's main stakeholders (including the general public, City of Cannon Beach and Clatsop-Nehalem Tribal members) voting and ultimately approving the current main entry location which is located at the existing breezeway between the two structures. Understanding that a tight and likely unsafe entry sequence due to the Gym's encroachment toward N. Beaver Ave would need to be resolved, and there was no better option in meeting the above goals.

e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

In meetings with the Public Works department and other City of Cannon Beach stakeholders, there have been no concerns raised regarding the width of the N. Beaver right-of-way as it relates to public utility placement.

f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

The proposed setback reduction in combination with the proposed N. Beaver Ave vacation would result in creating additional space between structures on site and vehicular traffic. Furthermore, the proposed setback reduction and associated request for vacation are for purposes of improving pedestrian access. The benefits of the covered walkway for pedestrian safety and circulation facilitated by this setback reduction are itemized in Section 2 above.

g) Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

There are two abutting properties to the site and both are single family residences located to the west of the Classroom Building. The northernmost of the two residences is situated such that there is no direct line of sight to the proposed covered walkway structure. The southernmost property has a direct line of sight but is located (at its nearest) approximately 100 feet away from the canopy structure. Given the proposed covered walkway's distance from this property and its relatively low height, there is expected to be no reduction in privacy to this residence.

h) The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.


All minimum required fire apparatus access widths are maintained with the proposed setback reduction and no effects to the existing degree of available fire protection for adjacent buildings are expected.

8. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Please see attached site plan (Exhibits 'B' and 'C') which includes all the information above.

Attach additional sheets as necessary.

Setback Application Fee: \$500.00

Applicant Signature:  Date: 03.30.23

Property Owner Signature:  for Bruce St. Denis Date: 4/14/23

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



CITY OF CANNON BEACH

STREET AND ALLEY VACATION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: Kelly Douglass
 Email Address: kellyd@cidainc.com
 Mailing Address: 15895 SW 72nd Ave, Suite 200, Portland, OR 97224
 Telephone: 503.226.1285
 Property Location: 268 Beaver St, Cannon Beach, OR 97110

STREET/ALLEY VACATION REQUEST:

1. Street or alley proposed for vacation. Please attach a map of the street or portion of a street you are requesting to vacate.

N. Beaver Ave. Please refer to attached Project Description (Exhibit 'A') and site plans (Exhibits 'B' and 'C')

Basis for granting the request. Explain how the request meets each of the following criteria for granting the vacation of a street or alley. Please attach additional sheets as necessary.

a. The request is not in conflict with the Comprehensive Plan.

Applicant has read the City of Cannon Beach Comprehensive Plan as it pertains to the subject site and believes that the requested partial vacation of N. Beaver Ave and associated improvements made feasible by this vacation do not pose conflict with the plan and instead lend to a higher degree of compliance with the plans vision for the Downtown Area and Cannon Beach as a whole, specifically:

Comprehensive Plan - Vision Statement, Page 5:

"The elements of the town's physical form which the plan will foster are:Visually attractive commercial areas which reflect the coastal location and incorporate a high degree of pedestrian amenities and landscaping."

Applicant's Response: The proposed vacation remedies a condition where an existing building encroaches 20 feet into the required 25-foot minimum front yard setback allowing for no pedestrian amenities (other than a 5' wide sidewalk) or landscaping between the site's main gathering point (the proposed SE Entry Plaza) and the main entrance to the facility. With Applicant's proposed design in considering incorporating this request for vacation, the site is able to be developed with a covered walkway along the main pedestrian transition from the SE Entry Plaza, additional room for gathering in the SE Entry Plaza, landscaping, interpretive signage and a comfortably-wide sidewalk that is dimensionally appropriate for a civic project of this nature.

Comprehensive Plan - Downtown Policies, Page 9:

"7. The City shall continue to encourage and promote improvements to Downtown streets and sidewalks necessary to enhance pedestrian use and safety."

Applicant's Response: The proposed design inclusive of this request for vacation remedies an existing condition where a maximum width of 5 feet is provided for pedestrian connection between the CBE Renovation Project's main entrance and the SE Entry Plaza due to the existing structure encroaching against the site's frontage with N. Beaver Ave. By necessity of the various types of functions the CBE Rejuvenation project is anticipated to provide, a wider accessible route and general pedestrian access is required to allow potentially large quantities of pedestrians moving at times in opposite directions. The increased pedestrian usage expected at times along this frontage with N. Beaver Ave punctuates the need for physical separation between vehicular traffic and pedestrian traffic, which would be provided by physical structure and landscape buffering made feasible by this requested vacation.

- b. There is a valid public purpose for the street/alley vacation. Returning the vacated street to the tax rolls shall not be considered sufficient to establish a valid public purpose.

This request follows the Planning Commission's motion to approve Applicant's request for a reduction of off-street parking requirements from 31 stalls to 7 stalls (# V23-01). As discussed in the Staff Report for # V23-01 and corresponding exhibits, this request for partial vacation of N. Beaver Ave will result in the project being able to meet the required off-street parking for the project, as well as to better accommodate CBE visitors and pedestrians as they progress from the project's SE Entry Plaza to the facility's Main Entrance.

- c. The request will not adversely affect the provision of public facilities and services.

The CBE Rejuvenation Project is a public project aimed to host tourism-related functions as well as to support local community based interests (e.g., indoor and outdoor recreation, classrooms and meeting spaces, indoor and outdoor event space, cultural history and education, etc.). This public facility will be positively affected by this request for vacation by providing enhanced vehicular and pedestrian access to the building and site. Public utilities currently located within the proposed vacation area will be relocated to be within the revised N. Beaver Ave right-of-way.

- d. The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.

The vacation requested is adjacent to an existing gravel driveway serving two single family residential properties. As such, the City of Cannon Beach (Owner) has collaborated with the owners of the two affected properties and gained their consent by means of maintaining the existing access patterns to both lots via a new access easement. The agreed upon easement is described in attached Exhibit 'D'.

- e. Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless and equivalent or improved public access is provided.

N. Beaver Ave does not provide direct access to ocean beaches or the Ecola Creek Estuary. Improvements made feasible by this vacation request will have the effect of making Ecola Creek Estuary more accessible by facilitating additional parking adjacent to the CBE Rejuvenation Project which serves as a gateway to the Estuary and Necus Park.

Street Vacation Application Fee: \$1,000.00

Applicant Signature:  Date: 03.30.23

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



CITY OF CANNON BEACH

STREET AND ALLEY VACATION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: Kelly Douglass
Email Address: kellyd@cidainc.com
Mailing Address: 15895 SW 72nd Ave, Suite 200, Portland, OR 97224

Telephone: 503.226.1285
Property Location: 268 Beaver St, Cannon Beach, OR 97110

STREET/ALLEY VACATION REQUEST:

1. Street or alley proposed for vacation. Please attach a map of the street or portion of a street you are requesting to vacate.

N. Beaver Ave. Please refer to attached Project Description (Exhibit 'E'), site plan (Exhibit 'A') and legal description and vacation map (Exhibit 'F')

Basis for granting the request. Explain how the request meets each of the following criteria for granting the vacation of a street or alley. Please attach additional sheets as necessary.

a. The request is not in conflict with the Comprehensive Plan.

Applicant has read the City of Cannon Beach Comprehensive Plan as it pertains to the subject site and believes that the requested partial vacation of N. Beaver Ave and associated improvements made feasible by this vacation do not pose conflict with the plan and instead lend to a higher degree of compliance with the plans vision for the Downtown Area and Cannon Beach as a whole, specifically:

Comprehensive Plan - Vision Statement, Page 5:

"The elements of the town's physical form which the plan will foster are:Visually attractive commercial areas which reflect the coastal location and incorporate a high degree of pedestrian amenities and landscaping."

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- c. The request will not adversely affect the provision of public facilities and services.

The CBE Rejuvenation Project is a public project aimed to host tourism-related functions as well as to support local community based interests (e.g., indoor and outdoor recreation, classrooms and meeting spaces, indoor and outdoor event space, cultural history and education, etc.). This public facility will be positively affected by this request for vacation by providing enhanced vehicular and pedestrian access to the building and site. Public utilities currently located within the proposed vacation area will be relocated to be within the revised N. Beaver Ave right-of-way.

- d. The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.

The vacation requested is adjacent to an existing gravel driveway serving two single family residential properties. As such, the City of Cannon Beach (Owner) has collaborated with the owners of the two affected properties regarding an access easement that would exist in perpetuity, please see Exhibit 'A' for location of access easement. Using a vehicle maneuvering program we verified that the access easement allows enough space for a 30-ft RV to park at the properties, which we believe would be the largest vehicle needing to park at those residences, please see Exhibit 'D' to see RV access. The agreed upon easement is described in attached Exhibit 'G'.

- e. Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless and equivalent or improved public access is provided.

N. Beaver Ave does not provide direct access to ocean beaches or the Ecola Creek Estuary. Improvements made feasible by this vacation request will have the effect of making Ecola Creek Estuary more accessible by facilitating additional parking adjacent to the CBE Rejuvenation Project which serves as a gateway to the Estuary and Necus Park.

Street Vacation Application Fee: \$1,000.00

Applicant Signature:  Date: 03.30.23

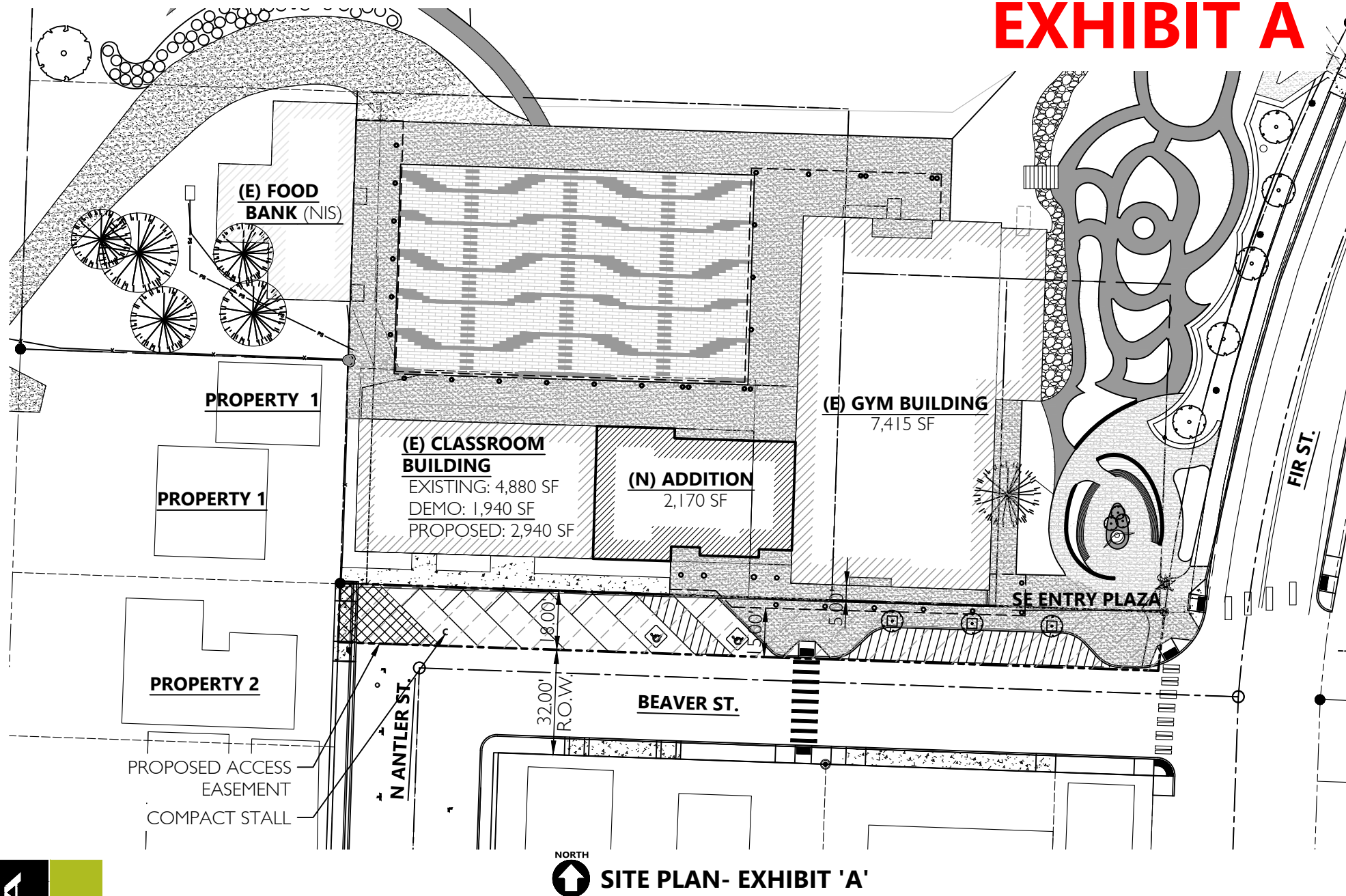
For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)

EXHIBIT A



SITE PLAN- EXHIBIT 'A'

CANNON BEACH ELEMENTARY REJUVENATION CANNON BEACH, OR

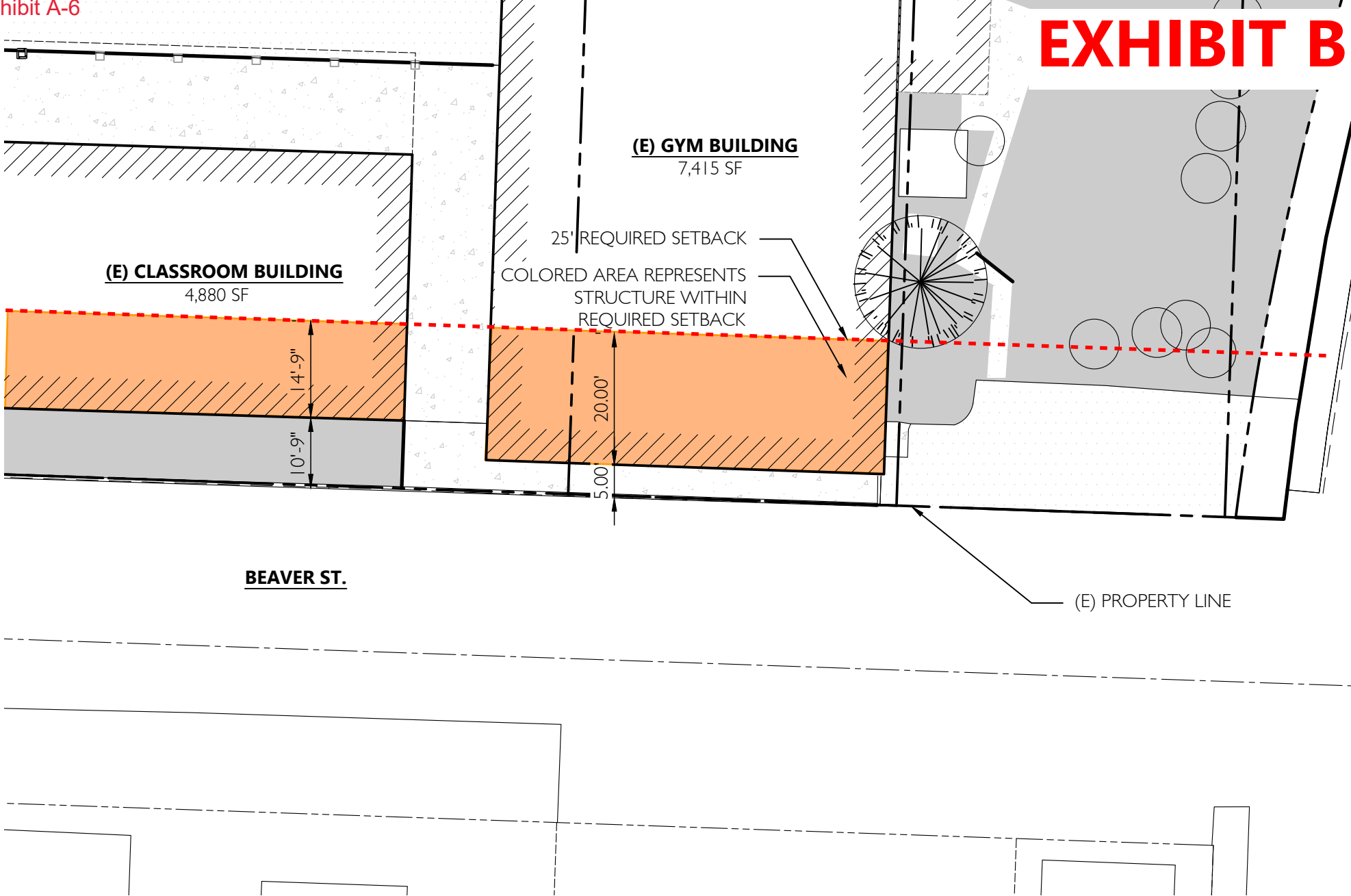
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TRG

04.14.23

220039.01

EXHIBIT B



EXISTING CONDITIONS SITE PLAN- EXHIBIT 'B'

CANNON BEACH ELEMENTARY REJUVENATION
CANNON BEACH, OR

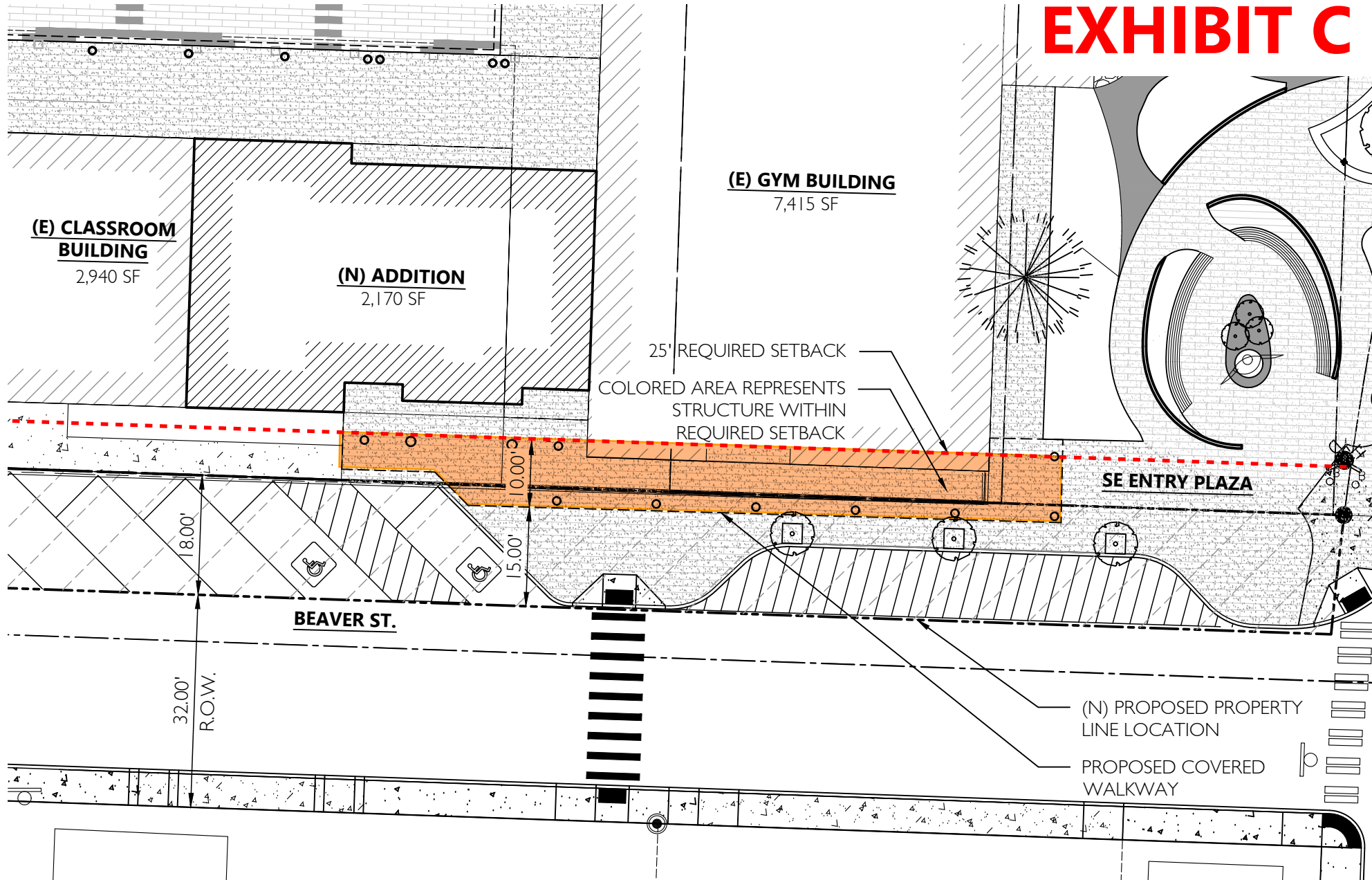
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TRG

04.14.23

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EXHIBIT C



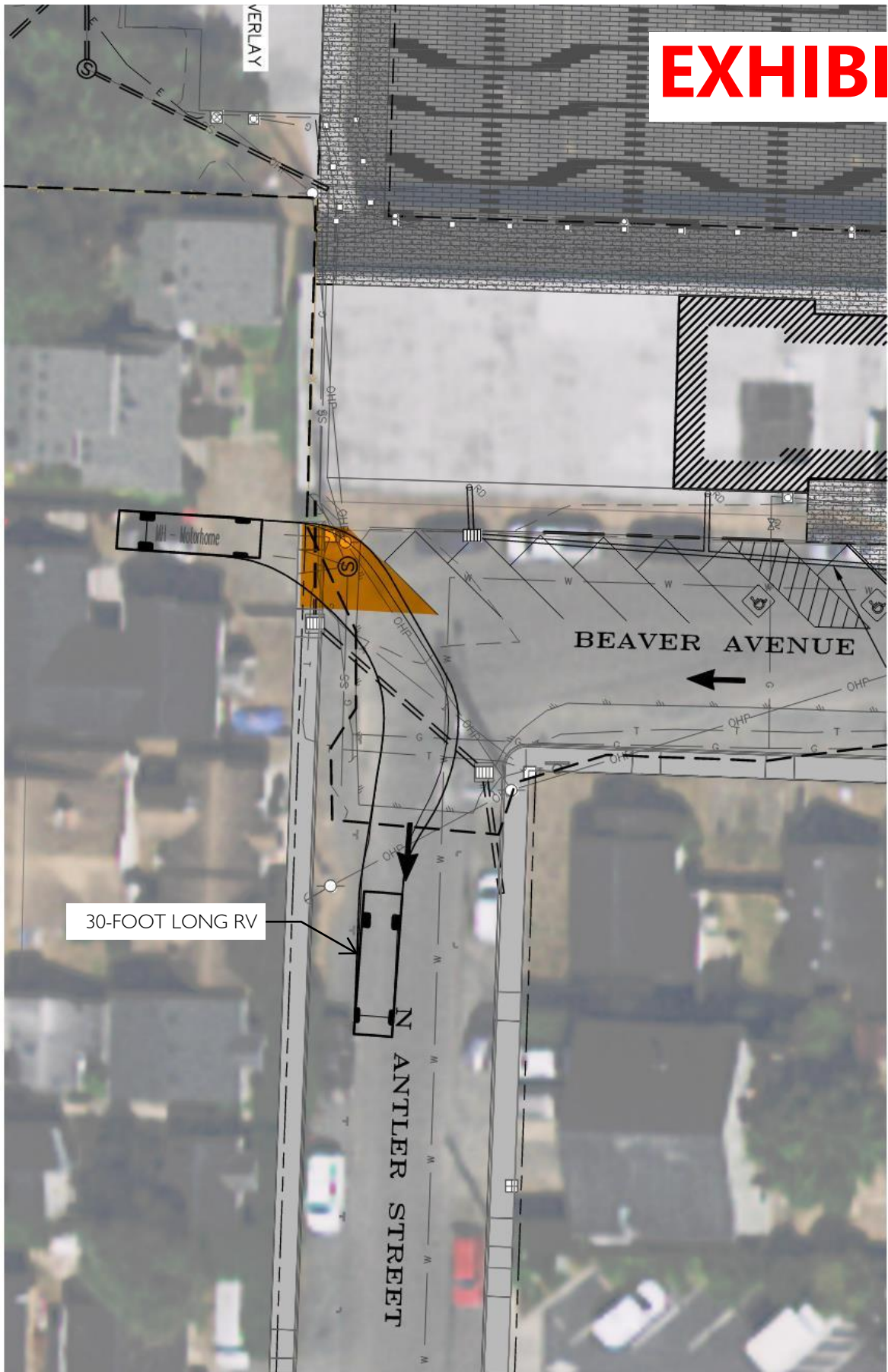
PROPOSED SITE PLAN- EXHIBIT 'C'

CANNON BEACH ELEMENTARY REJUVENATION CANNON BEACH, OR

1"=20'-0" TRG

04.14.23 220039.01

EXHIBIT D



NEIGHBOR RV PARKING- EXHIBIT 'D'

CANNON BEACH ELEMENTARY REJUVENATION CANNON BEACH, OR

N.T.S.

04.14.23



15895 SW 72ND AVE
SUITE 200
PORTLAND, OR 97224
PHONE: 503.226.1285
FAX: 503.226.1670
INFO@CIDAINC.COM
WWW.CIDAINC.COM

Project Description

Project No: 220039.01 Date: April 13, 2023

Project Name: Cannon Beach Elementary Rejuvenation Project

Subject: Requested Variance for Reduction in Off-Street Parking Requirements

By: Dustin Johnson, Project Architect (CIDA Architects and Engineers)

To: Robert St. Clair, *Planner*

PROJECT OVERVIEW

The Cannon Beach Elementary Rejuvenation Project is an adaptive re-use project aimed at reactivating the former Cannon Beach Elementary School and NeCus Park site for use by Cannon Beach visitors and residents, businesses, and the Clatsop Nehalem Confederated Tribe for a variety of community interests.

The 2.5-acre project site is situated at the north end of Cannon Beach and consists of multiple tax lots zoned 'IN' (Institutional). It is bordered by Ecola Creek to the north, Fir Street to the east, Beaver Street to the south and undeveloped city-owned property with beach access to the west. Zoning adjacent to the property includes 'E' (Estuary) to the north and west, 'PK' (Park Management) to the east and a combination of 'C1' (Limited Commercial) and 'R3' (High Density Residential) to the south.

As the site of the former Clatsop-Nehalem Tribal village of 'NeCus' for generations (perhaps over a thousand years) the site is nationally recognized as culturally significant and is considered one of the last best preserved Native American heritage sites on the West Coast. Given its location on the estuary where Ecola Creek discharges to the Pacific Ocean as well as the diversity of resident and migrating wildlife that frequent the bordering riparian area, the site is also recognized as both geographically and ecologically significant. These unique features and cultural heritage of the project site have inspired significant interest amongst public and Tribal stakeholders who have been actively engaged throughout the Programming and Schematic Design phases of the project.

Site vehicular access is by its frontage with Beaver Street as well as a gravel drive at the southwest corner of the site via N Spruce Street. A small asphalt-paved area exists on-site and is currently used as a vehicle turnaround by patrons of the food bank as well as miscellaneous recreational uses by NeCus Park users. Existing parking for the site is limited to three off-street paved stalls at the site's southeast corner and parallel on-street parking along Beaver Street.

The site contains three existing buildings of various construction types and functions. Two of the existing buildings (Structures 1 and 2 below) were last occupied by Cannon Beach Elementary School and have been vacant since 2013. The third building (Structure 3 below) was also occupied by the elementary school and now supports operations of the Cannon Beach Community Food Pantry. Additional details for each structure are as follows:

ARCHITECTURE
ENGINEERING
PLANNING
INTERIORS

Structure 1: Henceforth referred to as the 'Classroom Building' is an approximately 4,520 square foot wood frame structure with slab-on-grade foundation built in 1950. The building currently consists of classrooms, administrative offices and ancillary spaces including a covered walkway on the north side of the building. Proposed uses include classroom, exhibit space and general assembly spaces, without fixed seating.



15895 SW 72ND AVE
SUITE 200
PORTLAND, OR 97224
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FAX: 503.226.1670
INFO@CIDAINC.COM
WWW.CIDAINC.COM

Structure 2: Henceforth referred to as the 'Gym Building' is an approximately 7,034 square foot wood framed barrel vault structure with slab-on-grade foundation containing an open vaulted gym space and a 964 square foot classroom mezzanine with cafeteria and ancillary spaces below. The building also contains a 415 square foot addition at the northeast corner formerly housing the school's kitchen. Proposed uses for this space include gymnasium, event space (unconcentrated assembly space), storage, and kitchen space.

Structure 3: Henceforth referred to as the 'Food Bank' is an approximately 3,300 square foot wood framed structure with crawl space foundation. This structure is not incorporated with the current scope of work of the CBE Rejuvenation Project beyond basic site programming. The proposed use will remain a food pantry.

End of memo

ARCHITECTURE
ENGINEERING
PLANNING
INTERIORS



901 NW Carlon AVE. Ste 3 Bend, OR 97703
(541) 797-0954 — www.sflands.com

EXHIBIT F

LEGAL DESCRIPTION
PROPOSED RIGHT OF WAY VACATION
EXHIBIT A

A strip of land 18.0 feet wide, located in the SW1/4 of Section 20, Township 5 North, Range 10 West, W.M., City of Cannon Beach, Clatsop County, State of Oregon, lying within Beaver Avenue Right of Way (platted as Second Street), as shown on the plat of the Town of Antler Lodge, Book 5, Page 4, records of Clatsop County, more fully described as follows:

BEGINNING at the SW corner of Lot 8, of Block 5, said plat of Town of Antler Lodge, thence along the North Right of Way line of Beaver Avenue South 88°00'09" East, 251.67 feet to the Westerly Right of Way line of Fir Street and the beginning of a 533.42 foot radius non-tangent curve to the left having a radial bearing of South 82°46'04" East; thence along said Westerly Right of Way line and non-tangent curve to the left through a central angle of 1°56'20", an arc distance of 18.05 feet, and long chord bearing South 06°15'46" West, 18.05 feet; thence departing said Westerly Right of Way line along a line parallel with and 18.00 feet distant to the south of said North Right of Way line of Beaver Avenue North 88°00'09" West, 250.33 feet to the West Right of Way line of Antler Avenue; thence along said West Right of Way line North 01°59'51" East, 18.00 feet to the **POINT OF BEGINNING**.

Said description containing 4,517 sq. ft. of land, more or less.

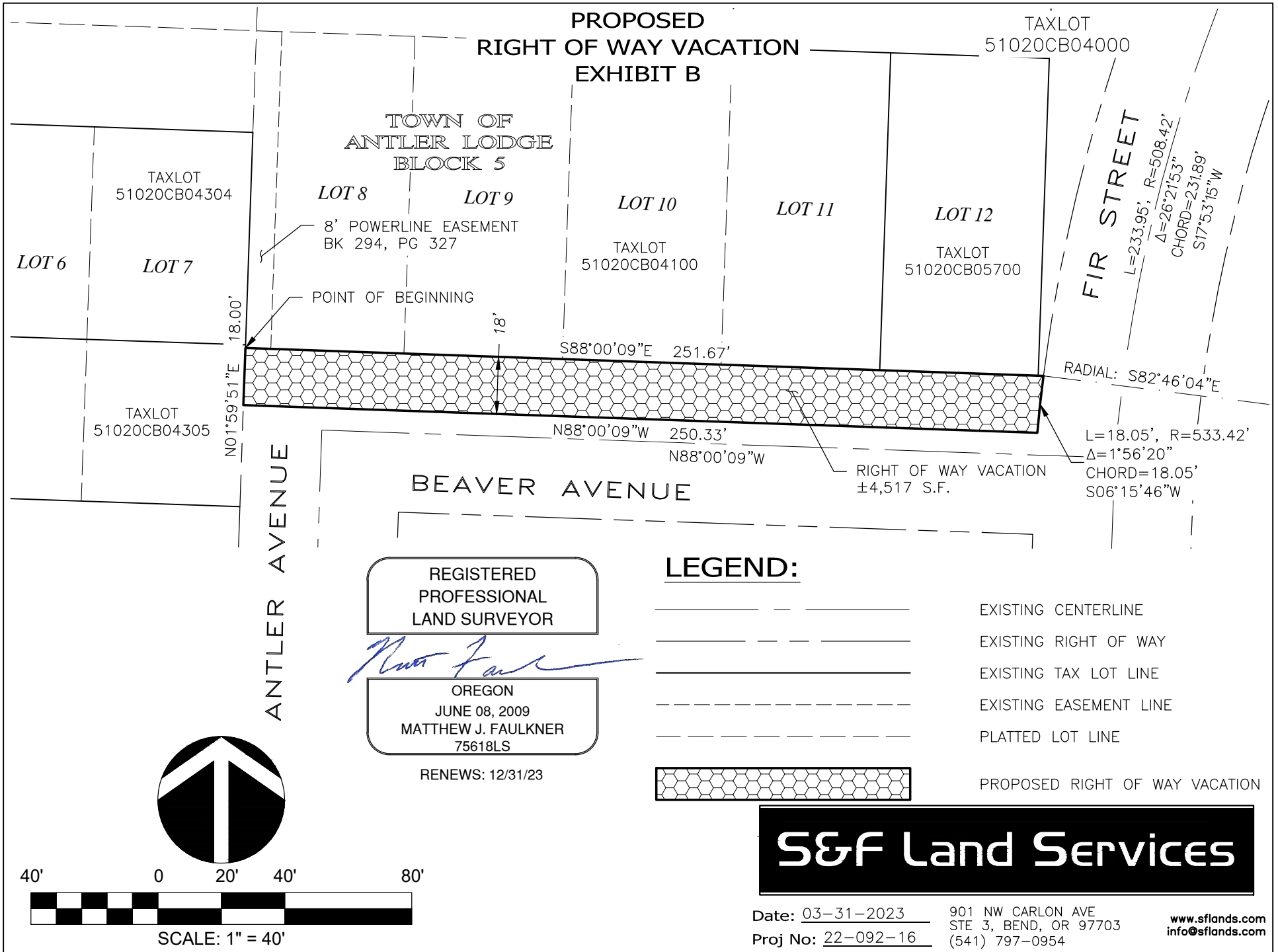
Subject to Easements and Restrictions of Record.

Bearings based on Oregon State Plane North Zone NAD83(2011).



RENEWES: 12/31/23

PROPOSED
RIGHT OF WAY VACATION
EXHIBIT B



S&F Land Services

901 NW Carlon AVE. Ste 3 Bend, OR 97703
(541) 797-0954 — www.sflands.com

EXHIBIT G

LEGAL DESCRIPTION
PROPOSED ACCESS EASEMENT
EXHIBIT A

Located in the SW1/4 of Section 20, Township 5 North, Range 10 West, W.M., City of Cannon Beach, Clatsop County, State of Oregon, that portion of land, lying within Beaver Avenue Right of Way (platted as Second Street), as shown on the plat of the Town of Antler Lodge, Book 5, Page 4, records of Clatsop County, more fully described as follows:

BEGINNING at the SW corner of Lot 8, of Block 5, said plat of Town of Antler Lodge; thence along the North Right of Way line of Beaver Avenue South 88°00'09" East, 10.47 feet; thence departing said North Right of Way line South 45°00'00" East, 26.39 feet to the South line of a proposed Right of Way Vacation of Beaver Avenue; thence along a line parallel with and 18.00 feet distant to the south of said North Right of Way line of Beaver Avenue North 88°00'09" West, 29.77 feet to the West Right of Way line of Antler Avenue; thence along said West Right of Way line North 01°59'51" East, 18.00 feet to the **POINT OF BEGINNING**.

Said description containing 362 sq. ft. of land, more or less.

Subject to Easements and Restrictions of Record.

Bearings based on Oregon State Plane North Zone NAD83(2011).

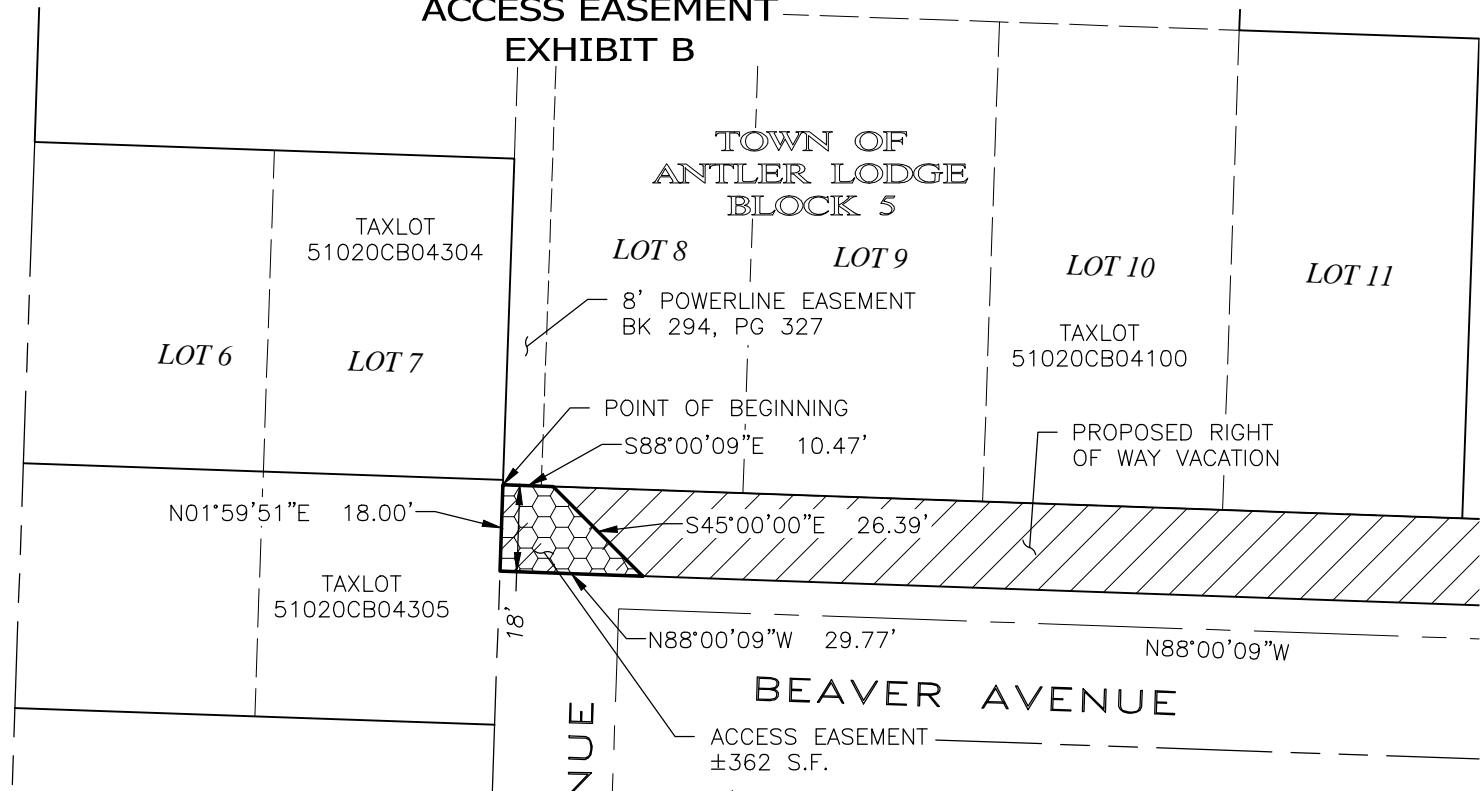
REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JUNE 08, 2009
MATTHEW J. FAULKNER
75618LS

RENEWES: 12/31/23

ACCESS EASEMENT EXHIBIT B

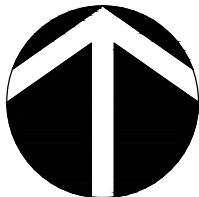


REGISTERED
PROFESSIONAL
LAND SURVEYOR

Matthew J. Faulkner

OREGON
JUNE 08, 2009
MATTHEW J. FAULKNER
75618LS

RENEWES: 12/31/23



SCALE: 1" = 40'

LEGEND:

- EXISTING CENTERLINE
- EXISTING RIGHT OF WAY
- EXISTING TAX LOT LINE
- EXISTING EASEMENT LINE
- PLATTED LOT LINE
- PROPOSED ACCESS EASEMENT

S&F Land Services

Date: 03-31-2023

Proj No: 22-092-16

901 NW CARLON AVE
STE 3, BEND, OR 97703
(541) 797-0954

www.sflands.com
info@sflands.com



CITY OF CANNON BEACH

April 7, 2023

SR#23-05 CIDA request on behalf of the City of Cannon Beach for a Setback Reduction and Street Vacation for the purpose of reducing the required setback in order to construct a covered entrance canopy and provide space for required off-street parking. The property is located at 268 Beaver Ave. (Tax Lots 4000, 4100, 4101, 4200, and 4301, Map 51020CB) in an Institutional (IN) zone. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, and section 12.32, Street and Alley Vacation, provisions established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, April 27, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

SR#23-05 CIDA request on behalf of the City of Cannon Beach for a Setback Reduction and Street Vacation for the purpose of reducing the required setback in order to construct a covered entrance canopy and provide space for required off-street parking. The property is located at 268 Beaver Ave. (Tax Lots 4000, 4100, 4101, 4200, and 4301, Map 51020CB) in an Institutional (IN) zone. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, and section 12.32, Street and Alley Vacation, provisions established.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Robert St. Clair, 503-436-8041, or at st.clair@ci.cannon-beach.or.us.

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.

Posted/Mailed: 4/7/23



Robert St. Clair
City Planner

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • www.ci.cannon-beach.or.us

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



Disclaimer: The information contained in this GIS application is NOT AUTHORITATIVE and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Cannon Beach assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Cannon Beach provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.

OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
Sequoia Investment Co LLC	601 SW 2nd Ave Ste #2100	Portland	OR	97204-3158
Harding Victor J	PO Box 1386	Cannon Beach	OR	97110
McCarthy Ann Louise	805 NW Skyline Crest Rd	Portland	OR	97229
Keller Ginger Payne	PO Box 987	Cannon Beach	OR	97110
Eyerman Creations LLC	PO Box 87	Cannon Beach	OR	97110
Cannon Beach Conference	PO Box 398	Cannon Beach	OR	97110-0398



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF ZO 23-01, JEFFREY MOON APPLICATION REQUESTING A COMPREHENSIVE PLAN AMENDMENT AND ZONE CHANGE FOR AN UNDEVELOPED PROPERTY NORTH OF THE INTERSECTION OF EAST SURFCREST AVE AND U.S. HIGHWAY 101. THE SUBJECT PROPERTY (TAX LOT#0400, MAP 51032BC) IS CURRENTLY ZONED RESIDENTIAL VERY LOW DENSITY AND THE REQUEST IS TO CHANGE THE ZONING TO RESIDENTIAL MEDIUM DENSITY (R2). THE REQUEST WILL BE REVIEWED UNDER MUNICIPAL CODE SECTION 17.86, AMENDMENTS, PROVISIONS ESTABLISHED.

Agenda Date: April 27, 2023

Prepared By: Robert St. Clair, Planner
Community Development Department

GENERAL INFORMATION

NOTICE

Public notice for this April 27, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on April 7, 2023;
- B. Notice was mailed on April 7, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on February 10, 2023 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Amendment to Zoning Ordinance Application ZO#23-01, submitted and stamped February 10, 2023;
- A-2** Geotechnical Hazard Report dated May 10, 2022, submitted February 10, 2023;
- A-3** Wetland Determination, dated December 19, 2020, submitted February 10, 2023;
- A-4** Proposed utility extension diagram, dated August 31, 2022, submitted February 10, 2023;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1** Planning Commission work session staff report, dated March 23, 2023;

"D" Exhibits – Public Comment

- D-1** Roberti Comment, received April 18, 2023

SUMMARY & BACKGROUND

Jeffrey Moon, property owner, is requesting a comprehensive plan amendment and zone change for Taxlot 51032BC00400 near the intersection of East Surfcrest Ave. and U.S. Highway 101. The property was annexed into the city in December 2007 and its zoning classification is (RVL) Residential Very Low Density. Adjacent properties to the south on East Surfcrest Ave. are currently zoned (R2) Residential Medium Density. The undeveloped property to the east is outside of both City Limits and the Urban Growth Boundary. As this application is for a single property that will not affect a broad area or number of property owners it is considered a quasi-judicial amendment action as defined by CMBC 17.86.050.

The purpose of the proposed plan amendment & zone change is to allow the subject property to be partitioned into three lots that could then be used for residential development. This level of density is not currently possible under the RVL zoning which has a density of one dwelling unit per acre as per CBMC 17.08.040(A).

APPLICABLE CRITERIA

17.86.070 Criteria.

B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

- 1. The amendment is consistent with the comprehensive plan;*

Staff Comment: The amendment is consistent with the Tolovana Park Policies of the Comprehensive Plan which mandates that the Tolovana Park neighborhood remain primarily residential in nature. Although the applicant's proposed development is not intended to serve the affordable or workforce markets as defined by the U.S. Department of Housing and Urban Development, it is intended to provide year-round primary housing. In the long term the applicant's proposal will serve to expand the size of the city's housing pool. Meets criteria.

- 2. The amendment will either:*

- a. Satisfy land and water use needs, or*
- b. Meet transportation demands, or*
- c. Provide community facilities and services;*

Staff Comment: As stated above the proposal will satisfy land use needs in that it will provide an opportunity to provide higher density housing at the subject property than it can support under current zoning. There are no anticipated transportation demand impacts as the number of average daily trips from the property is expected to be low. Meets criteria.

- 3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations;*

Staff Comment: Based on the applicant's geotechnical analysis the property has little inherent geologic hazard. This study recommends the use of engineered retaining walls to support cuts and fills and drainage strategies to effectively control storm water. The property is outside of the regulated floodplain and is not in a tsunami hazard zone. Meets criteria.

4. *Resource lands, such as wetlands are protected;*

Staff Comment: Based on the applicant's wetland delineation study, no wetlands are present on the subject property. Meets criteria.

5. *The amendment is compatible with the land use development pattern in the vicinity of the request.*

Staff Comment: The proposed amendment is consistent with the designation of adjacent lands immediately south of the subject property that are accessible from East Surfcrest Ave. These properties are zoned R2 and have been developed for residential purposes. The applicant's intent to partition the subject property into three separate parcels is not inconsistent with the level of development on the adjacent R2 zoned properties. Meets criteria.

PROCEDURAL REQUIREMENTS

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The application was submitted on February 10, 2023 and determined to be complete on February 13, 2023. Based on this, the City must complete its review of this proposal by June 13, 2023.

The Planning Commission's April 27th hearing will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to the hearing to request a continuance. The Planning Commission should grant any request for a continuance of this hearing. The Planning Commission's next regularly scheduled hearing date is May 25, 2023.

RECOMMENDATION

Staff recommends that the Planning Commission find the proposed zone change consistent with applicable comprehensive plan policies, criteria in the City's zoning ordinance, and statewide planning goals and recommend City Council approval of the proposed zone change.

DECISION AND CONDITIONS

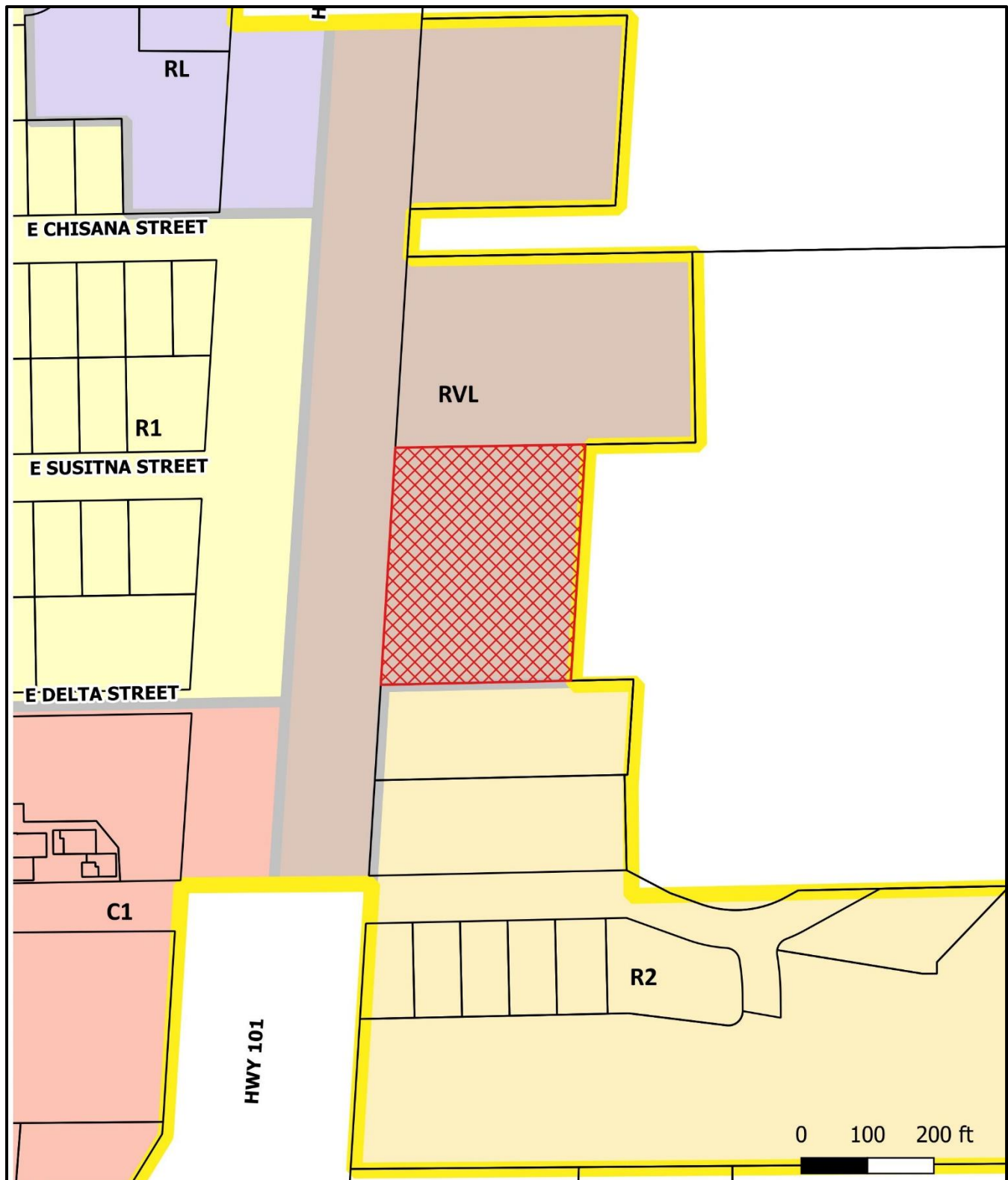
Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (recommend/not recommend) to City Council the Jeffrey Moon application for a Comprehensive Plan Amendment and Zone Change, **ZO#23-01**, as discussed at this public hearing.

Notice of Approval

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15)

ZO#23-01 Site Map with Current Zoning





CITY OF CANNON BEACH

map change

AMENDMENT TO THE ZONING ORDINANCE TEXT

Please fill out this form completely. Please type or print.

Applicant Name: Jeffrey D. Moon
 Email Address: jeffjodimoon@comcast.net
 Mailing Address: 220 Ogden Drive
Oregon City, OR 97045
 Telephone: 503-758-2740
 Property-Owner Name: _____

(if other than applicant)

Mailing Address: _____

Telephone: _____

Property Location: 51032 BC 00400 Cannon Beach, OR 97110Located North of E. Surfcrest &
East of Hwy 101

(street address)

Map No.: 51032 BC 00400 Tax Lot No.: 1008 51032 BC 00400 #6909

AMENDMENT TO THE ZONING ORDINANCE REQUEST:

- Description of the proposal. Rezone said lot 51032 BC 00400 from RVL (Residential very low density) to R2 zone (Residential medium density). This land was annexed into the city in December of 2007 and zoning was never changed at that time. All other property in the East Surfcrest area, east of Hwy 101 has changed to R2 zoning.
- Justification for the Zoning Ordinance amendment request. Explain how the request meets each of the following criteria for granting an amendment to the Zoning Ordinance.
 Based on all the R2 zoning requirements this property meets all the requirements. Based on the Geologic Hazard Report done by Horning Geosciences, it has stable land and based on slope it could have 3 building sites on the current 1.15 acres.

Note: Use extra sheets, if necessary, for answering the above questions.

Fee: \$1,500

Applicant Signature: Jeffrey D. Moon Date: Feb. 10, 2023
 Property Owner Signature: Jeffrey D. Moon Date: Feb. 10, 2023

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

For Staff Use Only:

Received on: 2-10-2023 By: (P) Fee
 Paid: 1,500 Receipt No.: _____
 (Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050
 www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us

City of Cannon Beach
 Finance Department

FEB 10 2023

PAID



City of Cannon Beach
163 E Gower St | PO Box 368
Cannon Beach, OR 97110
(503) 436-1581
cityhall@ci.cannonbeach.or.us

XBP Confirmation Number: 137690207

▶ Transaction detail for payment to City of Cannon Beach.		Date: 02/10/2023 - 11:50:27 AM MT	
Transaction Number: 192415041PT Visa — XXXX-XXXX-XXXX-8786 Status: Successful			
Account #	Item	Quantity	Item Amount
Zoning Amendment	Planning Fees	1	\$1500.00

TOTAL: \$1500.00

Billing Information
jeffrey d moon
, 97045

Transaction taken by: Admin tpfundCaselle pfund

Horning Geosciences

808 26th Avenue, Seaside, OR 97138

Ph./FAX: (503)738-3738

Email: horning@pacifier.com



May 10, 2022

Jeff Moon
220 Ogden Drive
Cannon Beach, OR 97110

RE: Geologic Hazard Report; Map 5 10 32BC, Tax Lot 400; east of Highway 101 and Susitna Street, Cannon Beach, Clatsop County, Oregon

Dear Mr. Moon:

This report addresses geologic hazards and geotechnical issues that are pertinent to the development of the above-referenced property into three homesites. We spent about 30 minutes on-site discussing plans and examining three test pits, one on each resultant lot. Overall Tax Lot 400 fronts the east side of Highway 101 for about 250 ft and is approximately 200 ft deep. The west side of the property is set back from the highway by around 80 ft.

Scope of Work

This investigation has been carried out at a reconnaissance level in order to identify geologic hazards that might be active on the property and how to mitigate for them. In addition, recommendations are made for soils and seismic conditions that may affect the property. Three test pits have been dug to explore the soils. These conditions are not expected to impose limitations on the investigation, nor is it expected to introduce significant uncertainty in the findings of the report.

Methods

Elevations are referenced to the North American Vertical Datum of 1988. Slopes have been measured in the field with a hand-held inclinometer or have been calculated from a site-specific 2-ft contour topographic map. Distances have been measured by pace and compass and by dead reckoning with the topographic map as a guide from staked property corners. Soils are classified according to the Unified Soils Classification System (USC) and are referenced to those listed in maps by the Soil Conservation Service (1985) and the Natural Resources Conservation Service (NRCS) website. Bedrock geology is referenced to maps published by Niem and Niem (1985) and Schlicker and others (1972).

Maps and Figures

The assessor's plat and LIDAR shaded relief map are provided in Figures 1 and 2. Geology is shown in Figure 3. Topographic layouts are shown in Figures 4 and 5. A test pit photo is in Figure 6. A liquefaction map is shown in Figure 7.

Quick Geology

The property ranges in elevation from a low of 60 ft near the southwest corner to as much as 120 ft in the northeast. Slopes range from 20 to 31 percent to the west-southwest. Slopes are fairly uniform and do not exhibit any hummocky landforms that might indicate landslide, although there are some subtle wind-thrown pits and mounds where

large old-growth trees have toppled in the past. A review of high-resolution LIDAR imagery from the City's GIS website finds no hummocky landforms, as shown in Figure 2. Trees do not tip. Creeks do not cross the property.

Soils in the three test pits encountered ML-CL silt-clay loam to depths of at least six feet. A blanket of topsoil ranges up to 18 inches in thickness. The silt-clay has a Stiff Consistency, based on probing resistance. It ranges in color from medium brown to yellow-brown, likely where minor feldspathic sandstone has been weathered.

Bedrock consists of nearly flat-lying mudstone of the Cannon Beach member of the Astoria Formation. It is likely that volcanic peperite (mixed basalt, sandstone, and mudstone) is located east of the property, based on changes in the topographic contours that suggest erosionally resistant materials. The deflections indicate the possible presence of basalt nested within more easily eroded mudstone. However, actual basaltic float has not been observed. Deflected elevation contours can be seen in Figure 3 and 4.

Hazard Analysis

The property has very little inherent geologic hazard. Landslides are non-existent. Shallow storm water will likely need to be controlled with peripheral foundation drains and drains behind retaining walls. Collected drain water can be piped into low ground between the property and Highway 101. Cuts and fills will likely need to be retained by engineered walls. The property is above expected tsunami run-up. There is seismic hazard.

It is assumed that the house foundations will be peripheral rebar-reinforced concrete spread footings with crawl spaces. Slab-on-grade foundations are acceptable.

Slope Instability

Mudstone slopes with ML-CL silt-clay overburden are expected to resist landslide failure for inclinations of 40 percent or less. Unretained cuts should be no steeper than 2H:1V (50 percent). Cuts taller than 4 ft should be retained.

Soil Geotechnical Considerations

Undisturbed native mineral soils are expected to be ML-CL clay silt soils that have a Firm to Stiff Consistency, based on origin by chemical weathering of mudstone. The presumptive soil bearing capacity and other properties are given below.

Properties for undisturbed native CL-ML mineral soils*

Allowable vertical foundation pressure	1500 psf
Lateral bearing pressure	200 psf per ft below natural grade
Lateral sliding resistance; coefficient of friction	0.30
Cohesion	130 psf
Friction angle	27°
Maximum unit weight	120 lb/cu ft
Lateral soil bearing pressure on <u>Unrestrained</u> retaining walls with level backfill, equivalent fluid weight (active pressure excluding surcharge effects)	40 lb/cu ft
Lateral soil bearing pressure on <u>Restrained</u> retaining walls with level backfill, equivalent fluid weight (active pressure excluding surcharge effects)	60 lb/cu ft

*- extracted, in part, from Table 1806.2- Presumptive Load Bearing Values- of the 2010 Oregon Structural Specialty Code

Cuts & Fill

Excavation should be carried out in reasonably dry weather, ideally from March through October, or when heavy rains are not expected, as wet conditions will weaken cut banks and cause excavated areas to become muddy and difficult. All organic soils, woody debris, and other deleterious materials must be removed from excavated areas. Temporary vertical cuts of 10 ft are expected to remain stable under dry weather conditions.

Native ML-CL clay-silt soils cannot be used as structural fill because of small particle size, which prevents proper compaction. Engineered fill for road lanes, parking areas, and as engineering aggregate that supports foundations should consist of well-graded pit-run basaltic quarry aggregate with fragments less than 3 inches in diameter. It should be laid in lifts of no more than 10 inches and should be compacted to 90 percent of maximum dry density with a vibratory plate compactor before the next lift is added. Compacted fill should extend at least 12 inches laterally beyond the edge of concrete footings. For parking areas and turnaround, structural aggregate should consist of at least 16 inches compacted pit-run quarry rock that is capped by 6 inches of $\frac{3}{4}$ -inch minus crushed rock. Properly compacted fill will resist deflection of more than $\frac{1}{4}$ -inch by proof-rolling with a loaded dump truck. Proof rolling should be witnessed by a representative of this firm.

Retaining walls should be engineered if taller than 4 ft. Soil properties for the design of retaining walls are provided above. Unretained cuts and compacted fill must be sloped no steeper than 50 percent (2 Horizontal to 1 Vertical). Uncompacted fill used for landscaping must be sloped no steeper than 33 percent, unless it is retained. Drains should be installed behind concrete retaining walls with perforated 3-inch PVC pipe at the base of the wall and the gap behind the wall filled with drain rock to within 12 inches of the finished surface. The drain rock should consist of well-sorted drain rock of at least 1 inch in diameter.

Over-compaction of granular backfill *behind* concrete retaining walls should be avoided. Heavy compactors and large equipment should not be operated within 5 ft of the walls, so as to avoid accidentally surcharging them. Compaction within 5 ft of walls should be done with a hand-compactor. The walls will be fully drained to avoid the build-up of hydrostatic pressures.

Drainage Control

The silt-clay soils will tend to drain poorly during periods of heavy rains. Peripheral foundation drains are recommended. Effluents from foundation drains, eaves troughs, and driveways should be piped to the lower side of the property or onto slopes lateral to the house for disposal. The low area between Highway 101 and the property is recommended as a site for drainage disposal. Disposal pipes from various drains and downspouts should not be combined for disposal until at least 2 ft below the elevation of the footing drains in order to avoid back-flow into the crawl space if one becomes plugged.

Finished surface around the houses should slope away from the structure for at least 15 ft, dropping one inch every five feet to assist drainage flow.

Seismicity & Tsunami

The project property is above tsunami inundation. The next Cascadia Subduction Zone earthquake has a 15 to 45 percent chance of occurring in the next 50 years. The last earthquake struck 322 years ago in the winter of 1700. Of the past 19 earthquakes to have struck in the last 10,000 years, 5 occurred within 320 years, and all but three of the remaining quakes struck between 300 and 700 years. This suggests strongly that the next earthquake will strike sometime within the next 200 years. However, the earthquakes appear to occur in clusters, characterized by intra-cluster recurrence intervals of 300 to 560 years. We are presently in a cluster in which the mean recurrence is 330 years. The last earthquake was 321 years ago. Possibly, the next quake may strike only a few years from now. Odds that we are still in the present cluster are calculated as high as 80 percent, according to Goldfinger and others (2016).

The odds of earthquake recurrence may be even higher, based on 1) the fact that the Cascadia Subduction Zone south of Coos Bay and Cape Blanco is prone to quakes every 240 years, on average; 2) that the quake of 1700 was the most recent one; and 3) that we are overdue by nearly 70 years. Some seismologists speculate that the long-overdue status of the coming earthquake may cause enough energy to be released to trigger a rupture that propagates the entire length of the subduction zone. If this is the case, the odds of the next full rupture may approach that of southern Cascadia, or perhaps to as much as 65 to 85 percent in the next 50 years.

Shaking amplification will be minor, because this property rests on weathered bedrock. Amplification occurs in weak, low-velocity soils and landslide debris, which are not very thick for the subject parcels. In view of these factors, the recommended seismic site classification for this site is "C". The following seismic design specifications are recommended:

Design Seismic Horizontal Acceleration

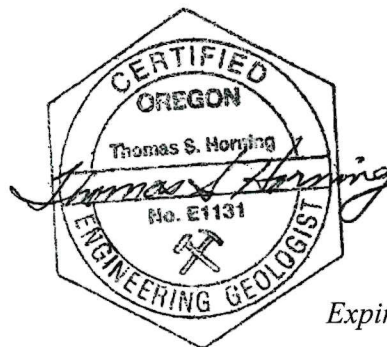
Site Classification:	d
Maximum Considered Spectral Acceleration (Short Period):	1.25
Residential Site Value: $F_a = 1.0$ $2/3 \times F_a \times S_s =$	0.84g
Peak Horizontal Acceleration: $0.84/2.5 =$	0.33g
Design Horizontal Acceleration:	0.16g

Because of the length of the convergent margin, the next quake will cause prolonged shaking that will last for up to 5 minutes. This shaking poses structural risk to houses and utilities. It is expected that most water, communications, electricity, and natural gas will be severed for weeks to months by the shaking, isolating Cannon Beach. Road access into and out of Cannon Beach will be sundered by landslides and damaged bridges. It must be made clear that there may be damage to foundations due to minor slope adjustments. This cannot be reliably predicted.

Liquefaction sensitivity of the site soils is low to nil, due to limited porosity of the ML-CL soils. See Figure 7.

Please feel free to call or write if you have questions.

Thomas S. Horning, CEG E1131
Horning Geosciences



Expires: 7/1/22

References Cited or Examined

- Niem, A. R., and Niem, W. A., 1985, Oil and Gas Investigation of the Astoria Basin, Clatsop and Northernmost Tillamook Counties, Northwest Oregon: OGI-14, State of Oregon, Department of Geology and Mineral Industries.
- Schlicker, H. G., Deacon, R. J., Beaulieu, J. D., and Olcott, G. W., 1972, Environmental Geology of the Coastal Region of Tillamook and Clatsop Counties, Oregon: Bulletin 74, State of Oregon, Department of Geology and Mineral Industries; 164 p. with plates.
- Witter, R.C., Horning, T., and Allan, J.C., 2009, Coastal Erosion Hazard Zones in Southern Clatsop County, Oregon: Seaside to Cape Falcon; Open File Report O 09-06; Oregon Department of Geology and Mineral Industries; 61 p.

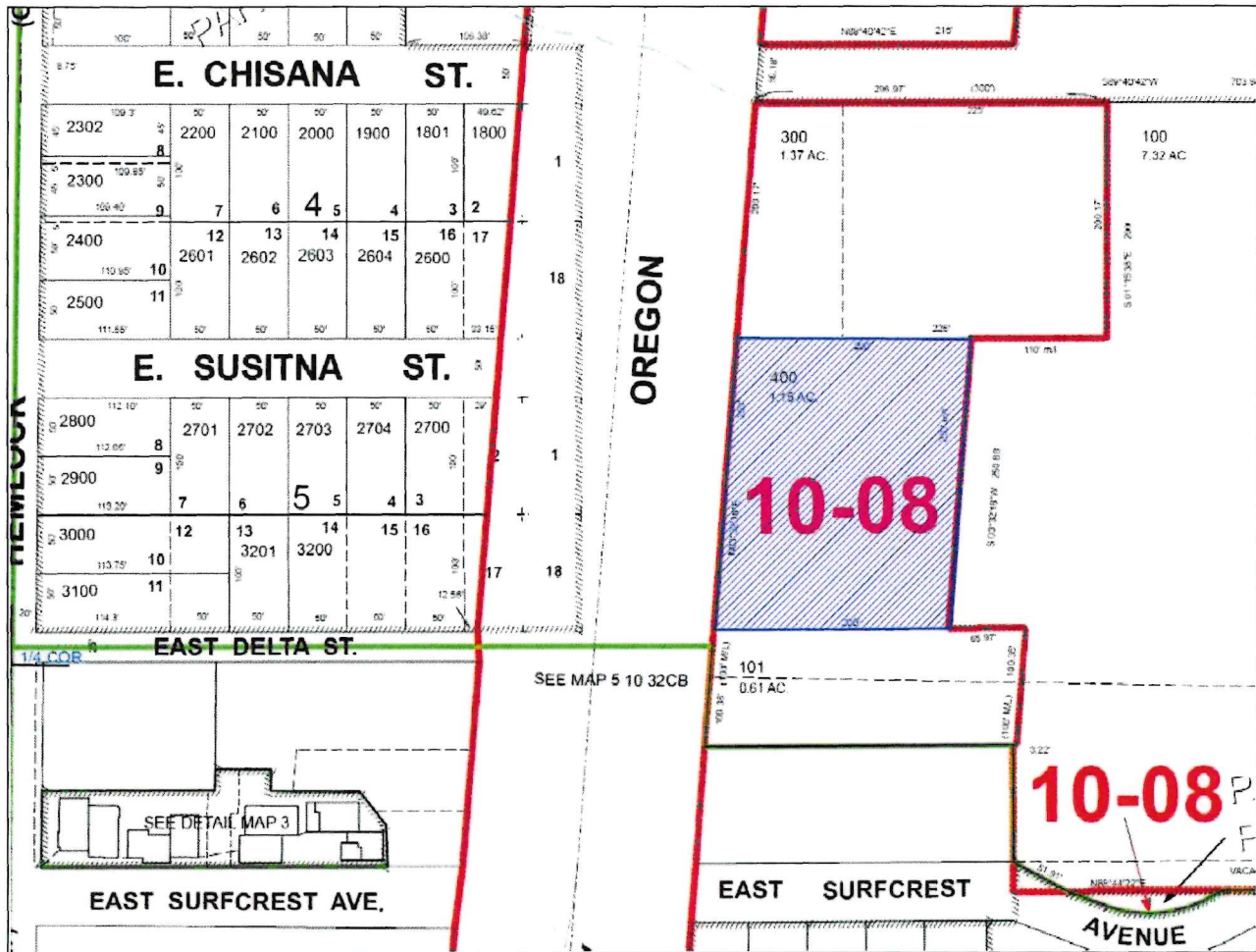


Figure 1: Property assessor's map, blue hatched area on Tax Lot 400.

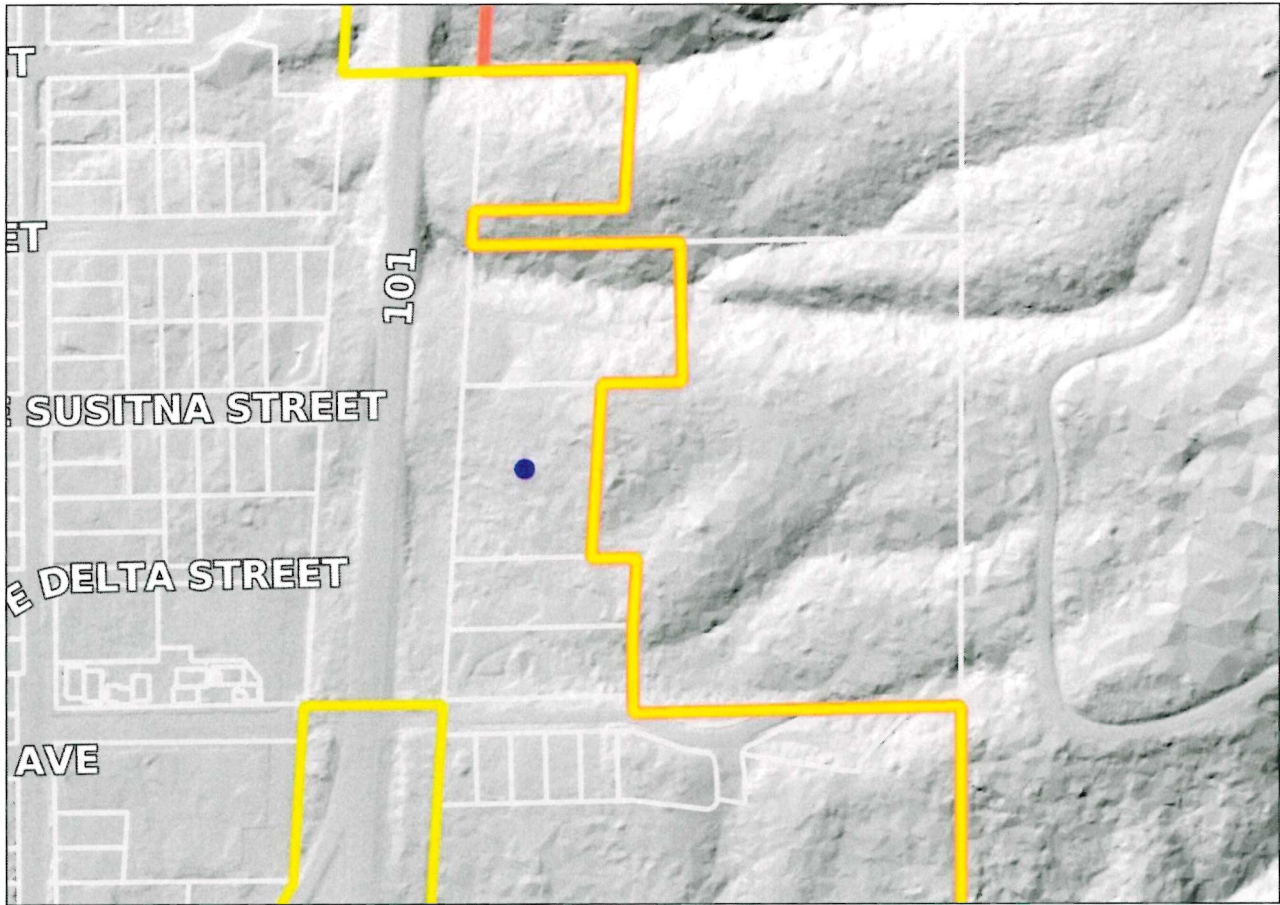


Figure 2: LIDAR shaded relief map for the northeast part of Tolovana Park, the blue dot indicating the position of Tax Lot 400. Smooth uniform slopes indicate no landslide activity; creeks have incised small gullies into the bedrock. Courtesy of the Cannon Beach GIS website.

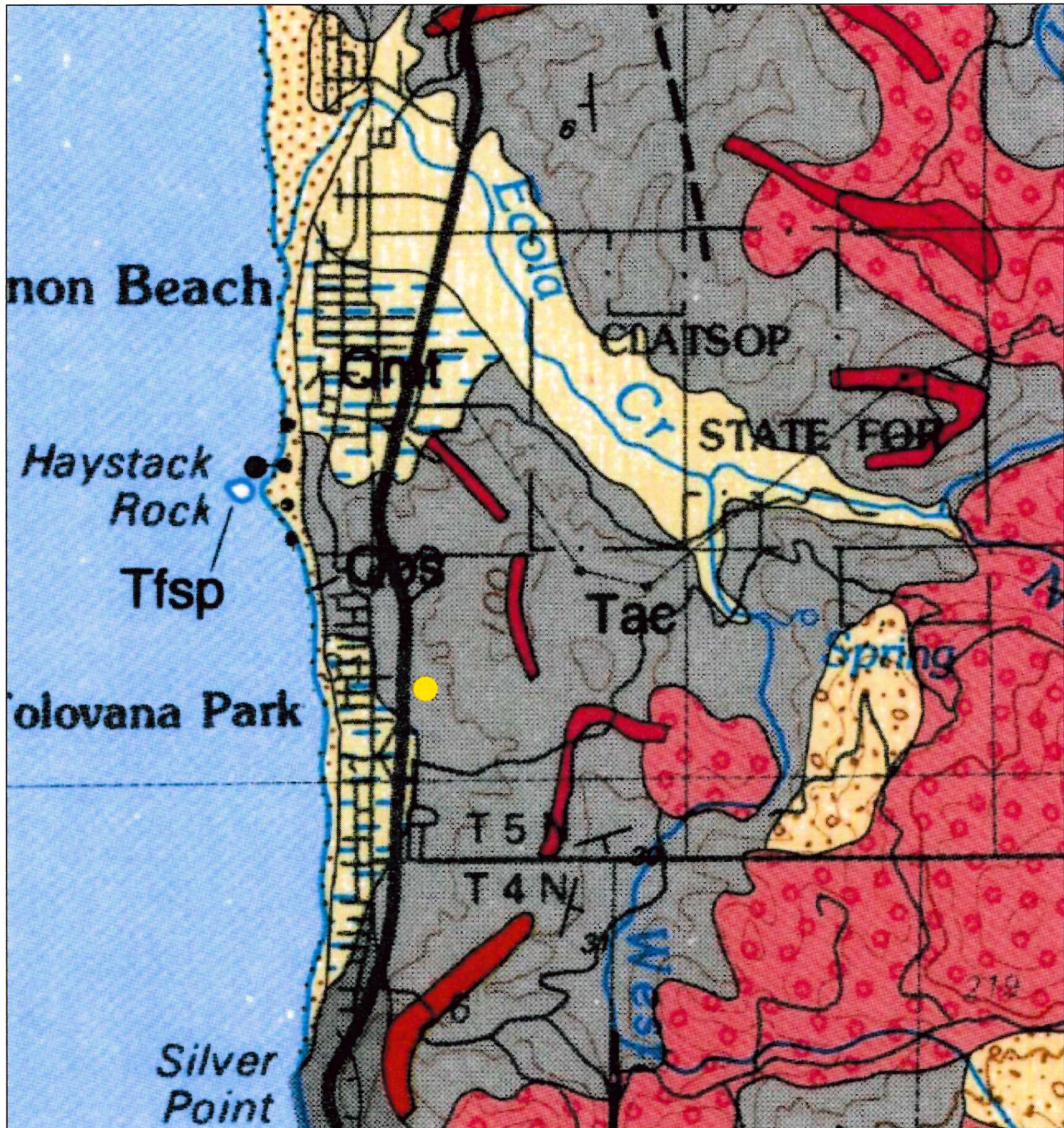


Figure 3: Geologic map of the Cannon Beach area; after Niem and Niem (1985). Yellow dot marks position of Tax Lot 400. It rests on west-facing slopes that are underlain by mudstone of the Cannon Beach member of the Miocene Astoria Formation (Tac) that has been invaded by Grande Ronde lavas of the Miocene Columbia River Basalt Group (dark red) and overlain by glassy fragmental lavas of the same type (light red). Coastal terrace sediments lap onto the bedrock west of Highway 101 (Qmt) and alluvium fills incised river valleys (buff). Not shown are Miocene peperite (seafloor explosive lavas and intermixed sediments) deposits between the dikes of lava and the highway.

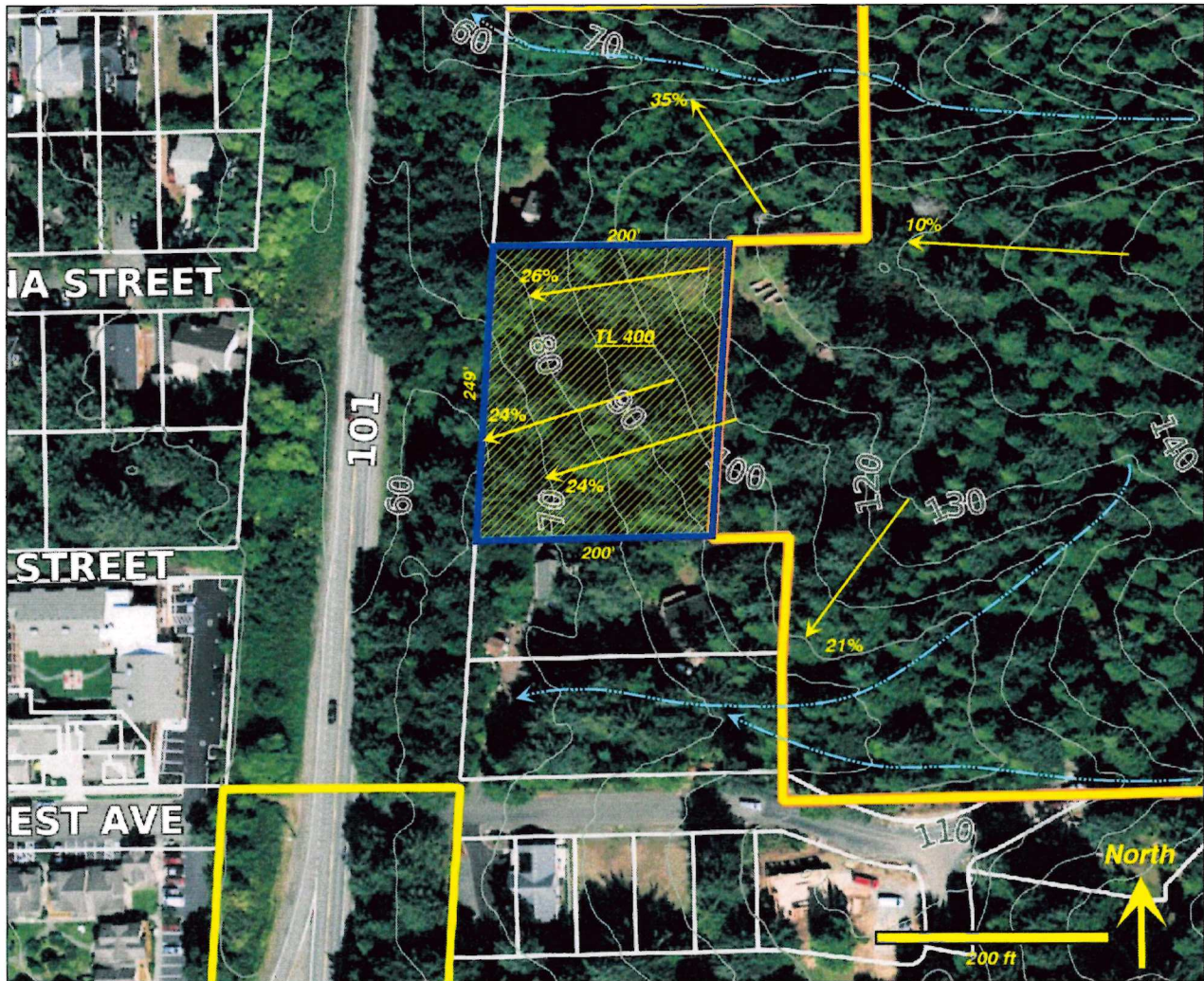


Figure 4: Site specific sketch map of Tax Lot 400 showing slopes calculated from elevation contours, which are based on LIDAR elevation values. Creeks drain to the west both north and south of the subject property.

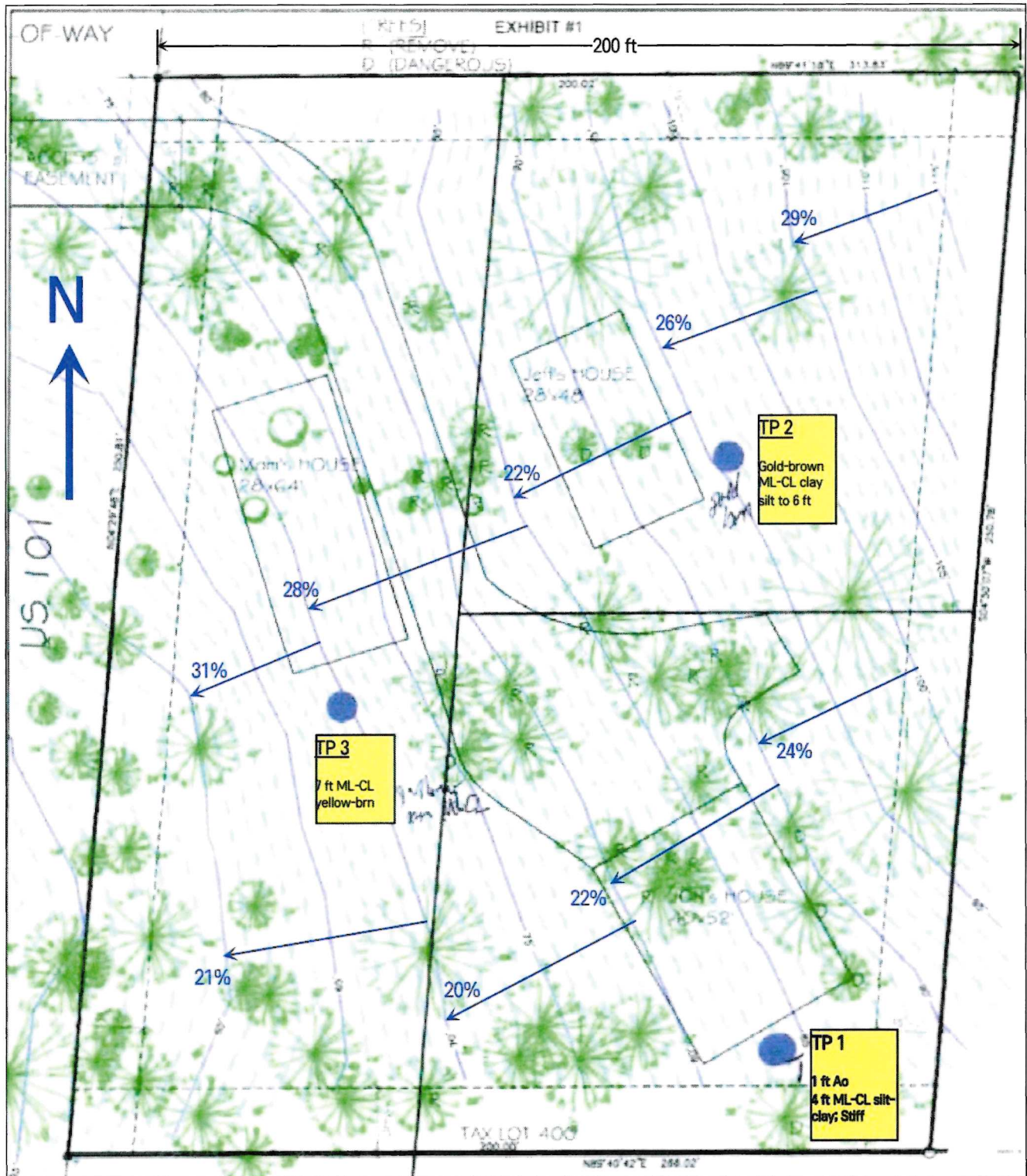


Figure 5: Site specific development map for Tax Lot 400 showing three test pits, positions of trees, calculated slopes, and elevations with 1-ft contours.



Figure 6: Test Pit 2 with brown clay-silt to 5 ft deep, capped by a layer of organic topsoil and mixed silt. This is decomposed mudstone from chemical weathering. No colluvial textures; Stiff Consistency.

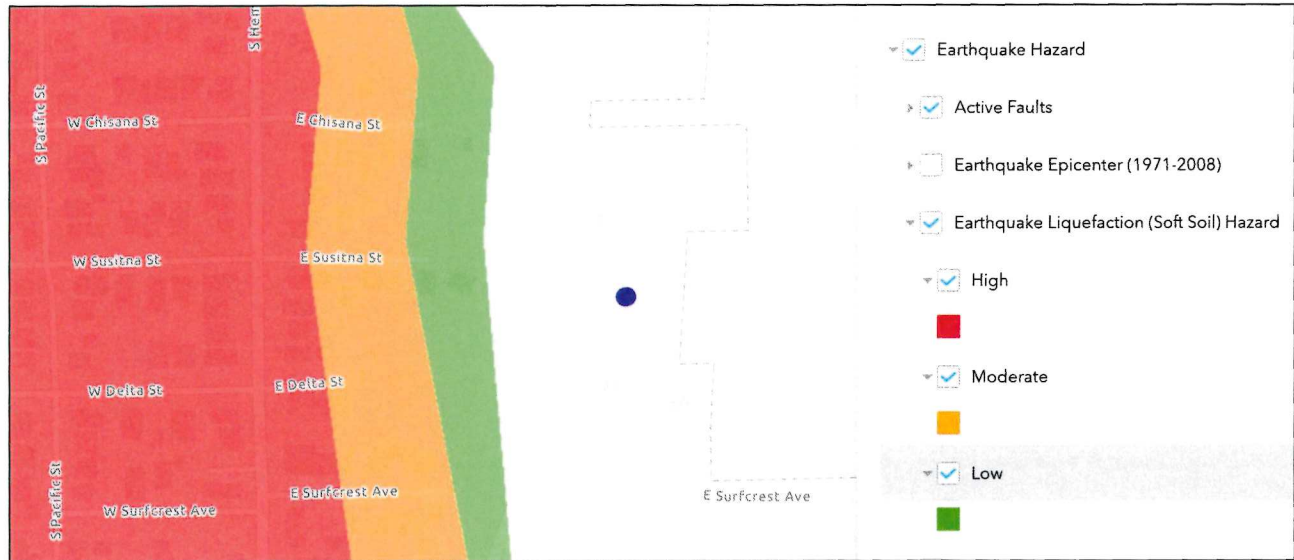


Figure 7: Anticipated liquefaction of soils from the DOGAMI HAZVU website; blue dot marks center of TL 400. Liquefaction hazard is low to nil.

**Wetland
Determination
Tax Lot 400
Cannon Beach, Clatsop County,
Oregon**
(Township 5 North, Range 10 West, Section 32)

Prepared for
Jeff Moon
220 Ogden Drive
Oregon City, OR 97045

Prepared by
NW Regolith
Austin Tomlinson
523 S. Cottage Ave.
Gearhart, OR 97138
(503) 440-0084
nwregolith@gmail.com

December 29th, 2020

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 F. Mapping Method

 G. Results and Conclusions.....

 H. Required Disclaimer.

III. REFERENCES.....

APPENDIX A: Figures

 Figure 1: Wetland Determination Map

APPENDIX B: Wetland Definitnions and Methology

I. INTRODUCTION

NW Regolith conducted a wetland determination on Tax Lot 51032BC00400 property in Cannon Beach, Clatsop County, Oregon at the request of Jeff Moon in order for due diligence concerning wetlands on a property in which he seeks to purchase. Wetland determination field work was conducted on December 27th, 2020. Figure 1 includes a map depicting the approximate location of wetlands outside the study area. A discussion of the wetland determination methodology is provided in Appendix B for the client.

II. RESULTS AND DISCUSSION

A. Landscape Setting and Land Use

The study area is approximately 1.15 acre in size and is located on the east side of Hwy 101 just north of the Tolvana exit in Cannon Beach, Oregon. The property is forested with some evidence of historical logging found throughout the property. The property to the north is developed with a shop and to the south with residential homes. The remaining area surrounding the property is upland forest.

B. Site Alterations

NW Regolith did not observe any evidence of recent fill, excavation, or other disturbance within the study area and, therefore, considered normal environmental conditions to be present. Old road fill and disturbance from the highway is evident within the highway right-of-way but not in the study area itself.

C. Methods

NW Regolith conducted the wetland determination and data collection on December 27th, 2020. NW Regolith delineated the limits of the jurisdictional wetlands in the study area based on the presence of wetland hydrology, hydric soils, and hydrophyte vegetation, in accordance with the Routine On- site Determination, as described in the *Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1* ("The 1987 Manual") and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region*.

D. Description of All Wetlands and Other Non-Wetland Waters

NW Regolith did not identified or delineate any wetlands with the study area. The outer edge of a small scrub/shrub- forested wetland lies to the west of the property boundary and is located within the highway right-of-way. The predominant Cowardin classification is palustrine forested, temporarily flooded (PFOA). The HGM classification is depressional. The wetland boundary may cross slightly over the study area boundary near the center of the property, but accurate sub-centimeter surveying would need to be conducted to accurately identify the boundary.

E. Deviation from LWI or NWI

The US Fish and Wildlife Service's National Wetlands Inventory (NWI) map indicates a riverine wetland that runs through the northwest corner of the property. This is not accurate and on the ground observations conducted for this report confirmed these findings. The Cannon Beach Local Wetlands Inventory (LWI) does not show any wetlands with the study area. On the ground observation and analysis for this report verify the existence of some wetlands outside the study area but would not fall under the same classification indicated in the NWI.

F. Mapping Method

S&F Surveying located and flagged the northwestern and southwestern corners before NW Regolith conducted the determination. NW Regolith conducted sample points within the approximate study area boundary. Data points were flagged with stakes and pink flagging. The wetland boundary flagging and wetland data point locations were mapped using Avenza app on an Apple Ipad. A survey would be need to conduct an accurate representation of the wetland boundary and data points on the ground using a combination of GPS and terrestrial survey procedures at sub-centimeter level.

G. Results and Conclusions

NW Regolith found no wetlands within the study area. A small linear scrub/shrub forested wetland appears to lay outside the study area to the west of the property boundary and is associated with the Hwy 101 right-of-way.

H. Required Disclaimer

This report documents the investigation, best professional judgment and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.

III. REFERENCES







- Adamus, P.R. and D. Field. 2001 *Guidebook for Hydrogeomorphic (HGM)-based Assessment of Oregon Wetland and Riparian Sites. Willamette Valley Ecoregion, Riverine Impounding and Slopes/Flats Subclasses*. Oregon Division of State Lands, Salem, OR.
- Hitchcock, CL and A. Cronquist. 1973. *Flora of the Pacific Northwest: An Illustrated manual*. University of Washington Press.
- Robert W. Lichvar and John T. Kartesz. 2012. *North American Digital Flora: National Wetland Plant List*, version 3.0. http://wetland_plants.usace.army.mil
- Munsell Color, 2009. *Munsell Soil Color Charts*.
- Oregon Department of State Lands. September 2001. *Removal-Fill Law (ORS 196.800-196.990) and Removal and Filling in Scenic Waterways (ORS 390.805-390.925)*.
- ORMAP tax maps. <http://www.ormap.org/>
- US Army Corps of Engineers, Environmental Laboratory, 1987. *Corps of Engineers Wetland Delineation Manual. Technical Report Y-87-1*.
- US Army Corps of Engineers, Environmental Laboratory, 2010. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0)*.
- USDA, Web Soil Mapper 2011. *Soil Survey of Clatsop County, Oregon*.
<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>
- USFWS, National Wetland Inventory, 2009. Gearhart, OR.
<http://www.fws.gov/wetlands/Wetlands-Mapper.html>
- US Geologic Survey. http://store.usgs.gov/b2c_usgs/usgs/maplocator/. 2011. 7.5-minute topographic map, Cannon Beach, OR.

Appendix A

Figures



Legend

 Approximate Wetland Area	Interstates	Transportation	 Interstates	Local Roads	Transportation	 Interstates	 Local Roads
Study Area			 Highways			 Highways	

Appendix B

Wetland Definitions, Methodology, and References

WATERS OF THE STATE AND WETLAND DEFINITION AND CRITERIA

Regulatory Jurisdiction

Wetlands and water resources in Oregon are regulated by the Oregon Department of State Lands (DSL) under the Removal-Fill Law (ORS 196.800-196.990) and by the U.S. Army Corps of Engineers (COE) through Section 404 of the Clean Water Act.

The primary source document for wetland delineations within Oregon is the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1* (Environmental Laboratory 1987) which is recognized by both DSL and COE.

Waters of the State and Wetland Definition

Waters of the State are defined as “natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable...”. “Natural waterways” is further defined as waterways created naturally by geological and hydrological processes, waterways that would be natural but for human-caused disturbances (e.g. channelized or culverted streams, impounded waters, partially drained wetlands or ponds created in wetlands)...”(DSL, 2001).

Wetlands are defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (DSL, 2001).

Wetland Criteria

Based on the above definition, three major factors characterize a wetland: hydrology, substrate, and biota.

Wetland Hydrology

Wetland hydrology is related to duration of saturation, frequency of saturation, and critical depth of saturation. The 1987 manual defines wetland hydrology as inundation or saturation within a major portion of the root zone (usually above 12 inches), typically for at least 12.5% of the growing season. The wetland hydrology criterion can be met, however, if saturation within the major portion of the root zone is present for only 5% of the growing season, depending on other evidence.

The growing season is defined as the portion of the year when soil temperatures at 19.7 inches below the soil surface are higher than biological zero (41 degrees Fahrenheit, 5 degrees Celsius), but also allows approximation from frost free days, based on air temperature. The growing season for any given site or location is determined from US Natural Resources Conservation Service, (formerly Soil Conservation Service) data and information.

Wetland hydrologic indicators include the following: visual observation of inundation or saturation, watermarks, drift lines, sediment deposits, drainage pattern, and/or oxidized rhizospheres with living roots. Oxidized rhizospheres are defined as yellowish-red zones around the roots and rhizomes of some plants that grow in frequently saturated soils.

Wetland Substrate (Soils)

Most wetlands are characterized by hydric soils. Hydric soils are those that are ponded, flooded, or saturated for long enough during the growing season to develop anaerobic conditions. Periodic saturation of soils causes alternation of reduced and oxidized conditions, which leads to the formation of redoximorphic features (gleying and mottling). Mineral hydric soils will be either gleyed or will have bright mottles and/or low matrix chroma. The redoximorphic feature known as gley is a result of greatly reduced soil conditions, which result in a characteristic grayish, bluish or greenish soil color. The term mottling is used to describe areas of contrasting color within a soil matrix. The soil matrix is the portion of the soil layer that has the predominant color. Soils that have brightly colored mottles and a low matrix chroma are indicative of a fluctuating water table.

Hydric soil indicators include: organic content of greater than 50% by volume, sulfidic material or "rotten egg" odor, and/or presence of redoximorphic features and dark soil matrix, as determined by the use of a Munsell Soil Color Chart. This chart establishes the chroma, value and hue of soils based on comparison with color chips. Mineral hydric soils usually have a matrix chroma of 2 or less in mottled soils, or a matrix chroma of 1 or less in unmottled soils.

Wetland Biota (Vegetation)

Wetland biota is defined as hydrophytic vegetation. A hydrophyte is a plant species that is capable of growing in substrates that are periodically deficient in oxygen as a result of saturated soil conditions. The U.S. Fish and Wildlife Service, in the *National List of Plant Species that Occur in Wetlands*, has established five basic groups of vegetation based on their frequency of occurrence in wetlands. These categories, referred to as the "wetland indicator status", are as follows: obligate wetland plants (OBL), facultative wetland (FACW), facultative (FAC), facultative upland (FACU), and obligate upland (UPL). Table 1 gives a definition of the plant indicator codes.

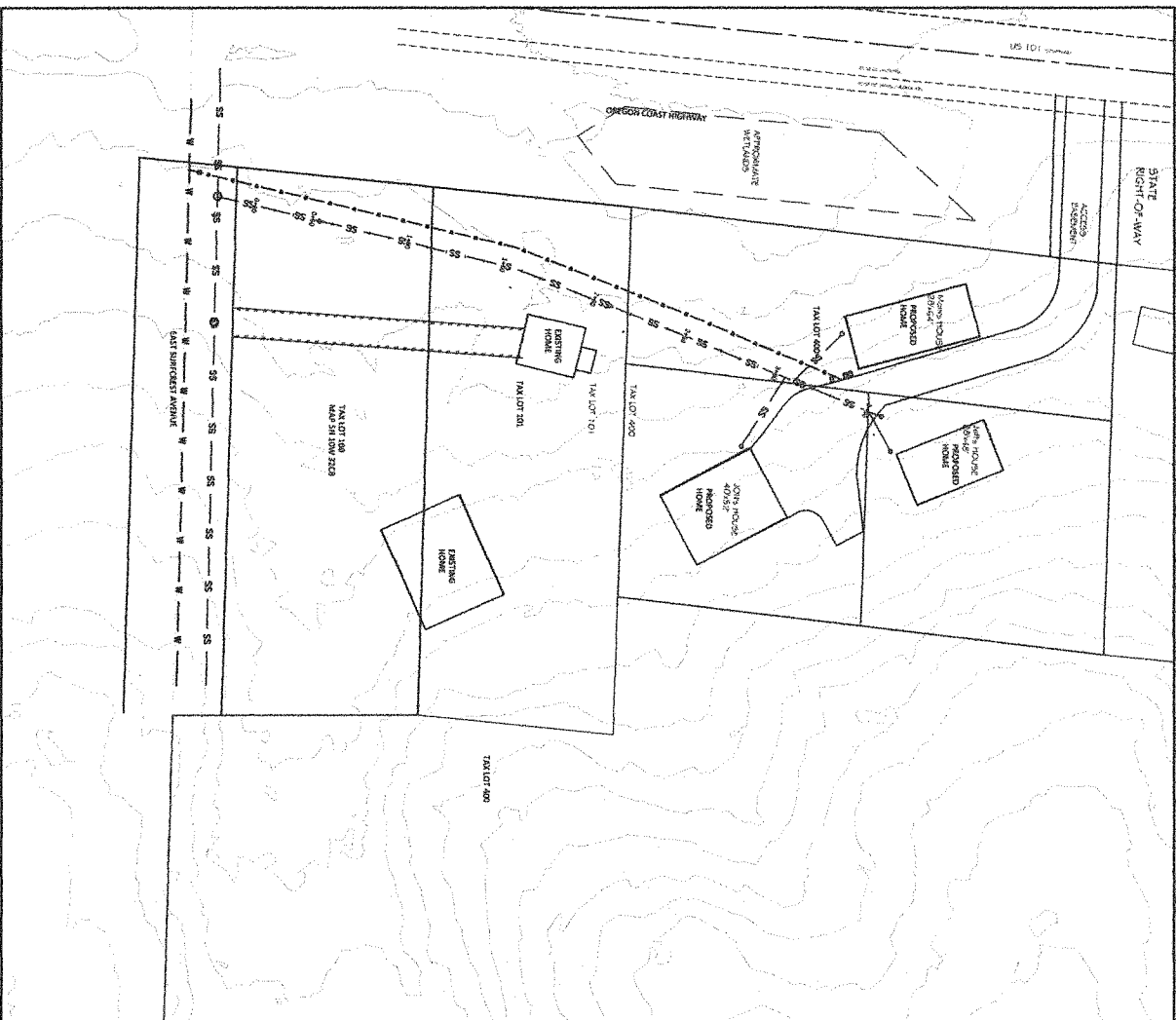
Table 1. Description of Wetland Plant Indicator Status Codes

Indicator Code	Status
OBL	Obligate wetland. Estimated to occur almost exclusively in wetlands (>99%)
FACW	Facultative wetland. Estimated to occur 67-99% of the time in wetlands.
FAC	Facultative. Occur equally in wetlands and non-wetlands (34-66%).
FACU	Facultative upland. Usually occur in non-wetlands (67-99%).
UPL	Obligate upland. Estimated to occur almost exclusively in non-wetlands (>99%). If a species is not assigned to one of the four groups described above it is assumed to be obligate upland.
NI	Has not yet received a wetland indicator status, but is probably not obligate upland.

Observations of hydrology, soils, and vegetation, were made using the "Routine On-site" delineation method as defined in the 1987 manual for areas that were not currently in agricultural production. One-foot diameter soil pits were excavated to 16 inches and soil profiles were examined for hydric soil and wetland hydrology field indicators. In addition, a visual percent-

cover estimate of the dominant species of the plant community was performed using soil pit locations as a center of reference. Dominant plant species are based on estimates of percent cover for herbaceous, woody vine, and shrub species within a 5 foot radius of the sample point, and basal area cover for tree species within a 30 foot radius of the sample point. Plant species in each vegetative layer, which are estimated at less than 20%, are not considered to be dominant. The wetland indicator status is then used to determine if there is an overall dominance (greater than 50%) of wetland or upland plant species.

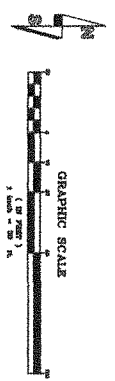
During data collection, the soil profiles were examined for hydric soil and wetland hydrology field indicators. Plant species and cover were recorded. Data was recorded on standard data sheets which contain the information specified in the 1987 Corps manual.



LEGEND

- PROPERTY LINE
- ROAD CENTER LINE
- EXISTING WATERLINE
- PROPOSED WATERLINE
- EXISTING SEWER LINE
- PROPOSED SEWER LINE
- EXISTING GAS LINE
- PROPOSED GAS LINE
- PROPOSED SIGN SYMBOL

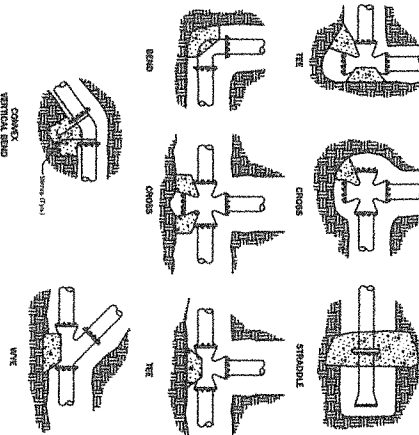
JEFF MOON
UTILITY EXTENSION
EAST SURFCREST AVENUE
TAX LOT 400
MAP 5N 10W 32BC
CANNON BEACH, CLATSOP COUNTY



THRUST BLOCKING

TABLE A
COMPARISON TABLE

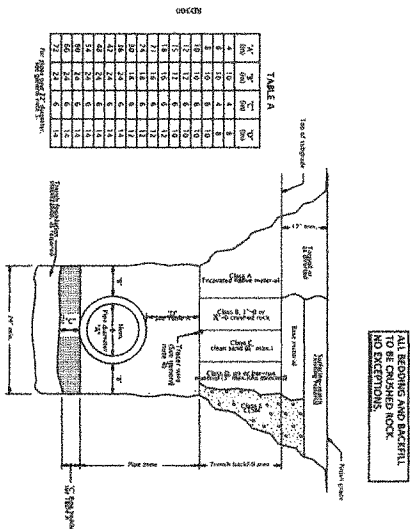
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2	sq ft	Reinforcing Steel	2	sq ft	Reinforcing Steel	2	sq ft	Reinforcing Steel	2	sq ft
3	sq ft	Formwork	3	sq ft	Formwork	3	sq ft	Formwork	3	sq ft
4	sq ft	Gravel	4	sq ft	Gravel	4	sq ft	Gravel	4	sq ft
5	sq ft	Asphalt	5	sq ft	Asphalt	5	sq ft	Asphalt	5	sq ft
6	sq ft	Concrete	6	sq ft	Concrete	6	sq ft	Concrete	6	sq ft
7	sq ft	Reinforcing Steel	7	sq ft	Reinforcing Steel	7	sq ft	Reinforcing Steel	7	sq ft
8	sq ft	Formwork	8	sq ft	Formwork	8	sq ft	Formwork	8	sq ft
9	sq ft	Gravel	9	sq ft	Gravel	9	sq ft	Gravel	9	sq ft
10	sq ft	Asphalt	10	sq ft	Asphalt	10	sq ft	Asphalt	10	sq ft
11	sq ft	Concrete	11	sq ft	Concrete	11	sq ft	Concrete	11	sq ft
12	sq ft	Reinforcing Steel	12	sq ft	Reinforcing Steel	12	sq ft	Reinforcing Steel	12	sq ft
13	sq ft	Formwork	13	sq ft	Formwork	13	sq ft	Formwork	13	sq ft
14	sq ft	Gravel	14	sq ft	Gravel	14	sq ft	Gravel	14	sq ft
15	sq ft	Asphalt	15	sq ft	Asphalt	15	sq ft	Asphalt	15	sq ft
16	sq ft	Concrete	16	sq ft	Concrete	16	sq ft	Concrete	16	sq ft
17	sq ft	Reinforcing Steel	17	sq ft	Reinforcing Steel	17	sq ft	Reinforcing Steel	17	sq ft
18	sq ft	Formwork	18	sq ft	Formwork	18	sq ft	Formwork	18	sq ft
19	sq ft	Gravel	19	sq ft	Gravel	19	sq ft	Gravel	19	sq ft
20	sq ft	Asphalt	20	sq ft	Asphalt	20	sq ft	Asphalt	20	sq ft
21	sq ft	Concrete	21	sq ft	Concrete	21	sq ft	Concrete	21	sq ft
22	sq ft	Reinforcing Steel	22	sq ft	Reinforcing Steel	22	sq ft	Reinforcing Steel	22	sq ft
23	sq ft	Formwork	23	sq ft	Formwork	23	sq ft	Formwork	23	sq ft
24	sq ft	Gravel	24	sq ft	Gravel	24	sq ft	Gravel	24	sq ft
25	sq ft	Asphalt	25	sq ft	Asphalt	25	sq ft	Asphalt	25	sq ft
26	sq ft	Concrete	26	sq ft	Concrete	26	sq ft	Concrete	26	sq ft
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29	sq ft	Gravel	29	sq ft	Gravel	29	sq ft	Gravel	29	sq ft
30	sq ft	Asphalt	30	sq ft	Asphalt	30	sq ft	Asphalt	30	sq ft
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32	sq ft	Reinforcing Steel	32	sq ft	Reinforcing Steel	32	sq ft	Reinforcing Steel	32	sq ft
33	sq ft	Formwork	33	sq ft	Formwork	33	sq ft	Formwork	33	sq ft
34	sq ft	Gravel	34	sq ft	Gravel	34	sq ft	Gravel	34	sq ft
35	sq ft	Asphalt	35	sq ft	Asphalt	35	sq ft	Asphalt	35	sq ft
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37	sq ft	Reinforcing Steel	37	sq ft	Reinforcing Steel	37	sq ft	Reinforcing Steel	37	sq ft
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39	sq ft	Gravel	39	sq ft	Gravel	39	sq ft	Gravel	39	sq ft
40	sq ft	Asphalt	40	sq ft	Asphalt	40	sq ft	Asphalt	40	sq ft
41	sq ft	Concrete	41	sq ft	Concrete	41	sq ft	Concrete	41	sq ft
42	sq ft	Reinforcing Steel	42	sq ft	Reinforcing Steel	42	sq ft	Reinforcing Steel	42	sq ft
43	sq ft	Formwork	43	sq ft	Formwork	43	sq ft	Formwork	43	sq ft
44	sq ft	Gravel	44	sq ft	Gravel	44	sq ft	Gravel	44	sq ft
45	sq ft	Asphalt	45	sq ft	Asphalt	45	sq ft	Asphalt	45	sq ft
46	sq ft	Concrete	46	sq ft	Concrete	46	sq ft	Concrete	46	sq ft
47	sq ft	Reinforcing Steel	47	sq ft	Reinforcing Steel	47	sq ft	Reinforcing Steel	47	sq ft
48	sq ft	Formwork	48	sq ft	Formwork	48	sq ft	Formwork	48	sq ft
49	sq ft	Gravel	49	sq ft	Gravel	49	sq ft	Gravel	49	sq ft
50	sq ft	Asphalt	50	sq ft	Asphalt	50	sq ft	Asphalt	50	sq ft



GENERAL NOTES FOR ALL DETAILS ON THIS SHEET:
 1. Thrust blocking shall be installed on all pipe runs.
 2. Thrust blocking shall be installed on all pipe runs.
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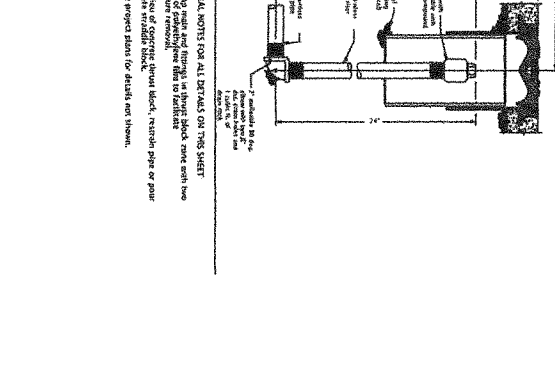
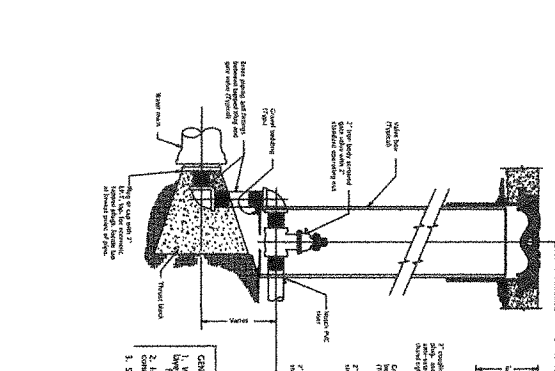
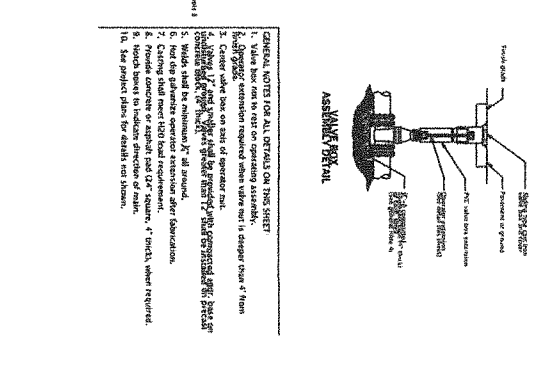
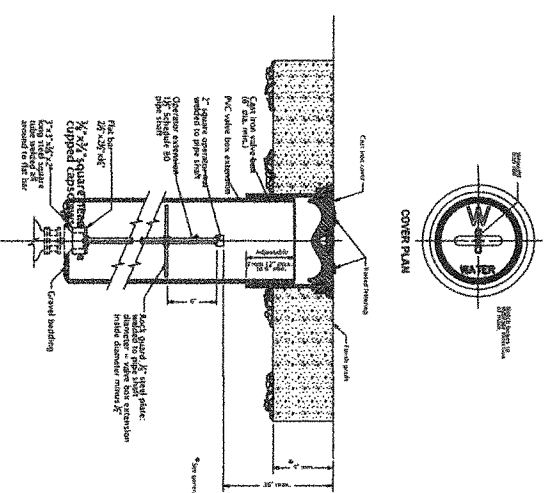


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GENERAL NOTES FOR ALL DETAILS ON THIS SHEET:

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MANHOLE WITH PRECAST CONICAL TOP

CORRECTION NOTES FOR ALL DETAILS ON THIS SHEET:

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SHALLOW TRENCH SERVICE

NOTES

- [illegible]



LOG NO.
#22-02-M00
DATE
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Cannon Beach Planning Commission

Work Session

Staff Report:

JEFFREY MOON PROPOSED COMPREHENSIVE PLAN AMMENDMENT & ZONE CHANGE FOR TAXLOT 51032BC00400, AN UNDEVELOPED PROPERTY NORTH OF THE INTERSECTION OF EAST SURFCREST AVE AND U.S. HIGHWAY 101. THE PROPERTY IS CURRENTLY ZONED (RVL) RESIDENTIAL VERY LOW DENSITY AND THE REQUEST IS TO CHANGE THE ZONING CLASSIFICATION TO (R2) RESIDENTIAL MEDIUM DENSITY.

Agenda Date: March 23, 2023

Prepared By: Robert St. Clair

Background

Jeffrey Moon, property owner, is requesting a comprehensive plan ammendment and zone change for Taxlot 51032BC00400 near the intersection of East Surfcrest Ave. and U.S. Highway 101. The property was annexed into the city in December 2007 and its zoning classification is (RVL) Residential Very Low Density. Adjacent properties to the south on East Surfcrest Ave. are currently zoned (R2) Residential Medium Density. The undeveloped property to the east is outside of both City Limits and the Urban Growth Boundary. As this application is for a single property that will not affect a broad area or number of property owners it is considered a quasi-judicial ammendment action as defined by CMBC 17.86.050.

Summary

The purpose of the proposed plan ammendment & zone change is to allow the subject property to be partitioned into three lots that could then be used for residential development. This level of density is not currently possible under the RVL zoning which has a density of one dwelling unit per acre as per CBMC 17.08.040(A). The peritent criteria to be considered are found in CMBC 17.86.070(B) – Ammendments, Criteria.

B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

- 1. The amendment is consistent with the comprehensive plan;*

Staff Comment: The amendment is consistent with the Tolovana Park Policies of the Comprehensive Plan which mandates that the Tolovana Park neighborhood remain primarily residential in nature. Although the applicant's proposed development is not intended to serve the affordable or workforce markets as defined by the U.S. Department of Housing and Urban Development, it is intended to provide year-round primary housing. In the long term the applicant's proposal will serve to expand the size of the city's housing pool.

2. *The amendment will either:*

- a. Satisfy land and water use needs, or*
- b. Meet transportation demands, or*
- c. Provide community facilities and services;*

Staff Comment: As stated above the proposal will satisfy land use needs in that it will provide an opportunity to provide higher density housing at the subject property than it can support under current zoning. There are no anticipated transportation demand impacts as the number of average daily trips from the property is expected to be low.

3. *The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations;*

Staff Comment: Based on the applicant's geotechnical analysis the property has little inherent geologic hazard. This study recommends the use of engineered retaining walls to support cuts and fills and drainage strategies to effectively control storm water. The property is outside of the regulated floodplain and is not in a tsunami hazard zone.

4. *Resource lands, such as wetlands are protected;*

Staff Comment: Based on the applicant's wetland delineation study, no wetlands are present on the subject property.

5. *The amendment is compatible with the land use development pattern in the vicinity of the request.*

Staff Comment: The proposed amendment is consistent with the designation of adjacent lands immediately south of the subject property that are accessible from East Surfcrest Ave. These properties are zoned R2 and have been developed for residential purposes. The applicant's intent to partition the subject property into three separate parcels is not inconsistent with the level of development on the adjacent R2 zoned properties.

Recommendation

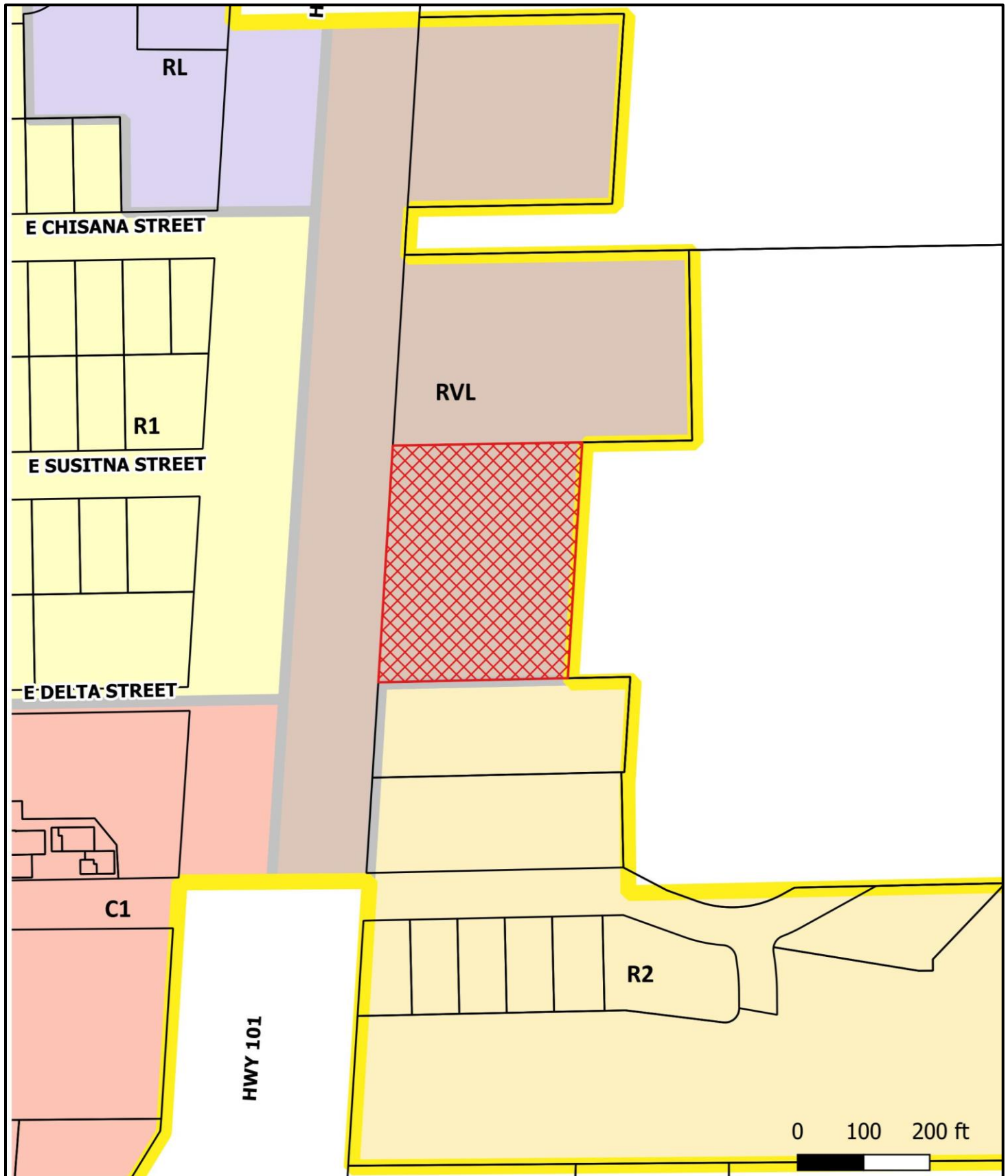
Staff recommends that the Planning Commission find the proposed zone change consistent with applicable comprehensive plan policies, criteria in the City's zoning ordinance, and statewide planning goals and recommend City Council approval of the proposed zone change.

Attachments

- A. Application for Amendment to the Zoning Ordinance/Comprehensive Plan Map with May 2022 Horning Geosciences geologic hazard report and December 2020 NW Regolith wetland determination report attached.

Site Map – Current Zoning

Subject Property Highlighted in Red



Robert St. Clair

From: peggy1442@charter.net
Sent: Tuesday, April 18, 2023 3:20 PM
To: Planning Group
Subject: Zo#23-01.

Follow Up Flag: Follow up
Flag Status: Flagged

This is a note to give our support to Jeff Moon regarding his tax lot 51032BC00400. We are close neighbors to this property. We have no objections to his proposed building plans.

Peggy Roberti
Tom Misner
221 E Surfcrest.

Sent from my iPad Peggy



CITY OF CANNON BEACH

April 7, 2023

ZO#23-01, Jeffrey Moon proposed Comprehensive Plan Amendment & Zone Change for Taxlot 51032BC00400, an undeveloped property north of the intersection of East Surfcrest Ave. and U.S. Highway 101. The property is currently zoned (RVL) Residential Very Low Density and the request is to change the zoning classification to (R2) Residential Medium Density. The request will be reviewed under Municipal Code section 17.86, Amendments, provisions established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 250 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 250 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, April 27, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

ZO#23-01, Jeffrey Moon proposed Comprehensive Plan Amendment & Zone Change for Taxlot 51032BC00400, an undeveloped property north of the intersection of East Surferest Ave. and U.S. Highway 101. The property is currently zoned (RVL) Residential Very Low Density and the request is to change the zoning classification to (R2) Residential Medium Density. The request will be reviewed under Municipal Code section 17.86, Amendments, provisions established.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Robert St. Clair, 503-436-8041, or at st.clair@ci.cannon-beach.or.us.

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.

Posted/Mailed: 4/7/23



Robert St. Clair
City Planner

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • www.ci.cannon-beach.or.us

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
Evansen Scott R	PO Box 121	Tolovana Park	OR	97145
Janecek Jay	PO Box 1861	Veradale	WA	99037
Scher Steven	4 Mountain Ridge Dr	Oxford	NJ	7863
Moon Steven J	PO Box 162	Cannon Beach	OR	97110-0162
Sroufe Gerald B	PO Box 166	Cannon Beach	OR	97110-0166
Feris Marie L	9755 SE French Acres Dr	Happy Valley	OR	97086-6911
Moon Jeffrey D	220 Odgen Dr	Oregon City	OR	97405
Sroufe Peter C	PO Box 1191	Cannon Beach	OR	97110-1191
Young Daniel G	PO Box 182	Tolovana Park	OR	97145
Finley Soon Im	2990 NW Bauer Woods Dr	Portland	OR	97229-3680
Hospitality First LLC	PO Box 1037	Cannon Beach	OR	97110-1037
Misner Thomas I	PO Box 151	Tolovana Park	OR	97145



Cannon Beach Planning Commission

Staff Report Addendum (April 20th, End of Business):

PUBLIC HEARING AND CONSIDERATION OF SR#23-01, MICHAEL MORGAN ON BEHALF OF JEFF AND MIRIAM TAYLOR, REQUESTING A SETBACK REDUCTION AT 1956 S. HEMLOCK ST. (TAXLOT 51030DD04300) FOR A REDUCTION OF THE SIDE YARD SETBACK. THE PURPOSE OF THE SETBACK REDUCTION IS TO ALLOW FOR A GROUND LEVEL EMERGENCY ACCESS ON A PROPOSED NEW SINGLE-FAMILY DWELLING. THE PROPERTY IS IN THE RESIDENTIAL LOWER DENSITY (RL) ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTION 17.64.010, SETBACK REDUCTION, PROVISIONS ESTABLISHED.

Agenda Date: February 23, 2023
Continued to March 23 and April 27, 2023

Prepared By: Robert St. Clair

NEW MATERIALS: EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 28, 2022 unless otherwise noted.

"A" Exhibits – Application Materials

- A-3** Applicant's consent to extend 120 day review period, received April 4, 2023;
- A-4** Revised site plan, received April 12, 2023;
- A-5** Email with photo of parked car, received April 14, 2023;

"C" Exhibits – Cannon Beach Supplements

- C-1** Public Works Department comment, received February 22, 2023;

"D" Exhibits – Public Comment

Non received as of this writing;

SUMMARY

Attached are new materials since the distribution of the agenda and packets, posted March 16, 2023.

Michael Morgan, on behalf of Jeff and Miriam Taylor, is seeking a setback reduction of the required side yard from fifteen feet for a dwelling on a corner lot to allow for a ground level doorway that would serve as an emergency access for a proposed new single-family dwelling that is intended to replace the existing dwelling. The subject property has significant slopes and the current residence is set into the hillside and is a non-conforming structure as it was built on a retaining wall set twelve feet back from the property line. Plans for the replacement house indicate that it will be built in conformance to current setback standards and this request is for a porch that would

extend into the side yard setback. In the event of a fire or other emergency this would enable direct access to the second floor from Hemlock St.

Following the March 23rd hearing a revised site plan showing the footprint of the planned new dwelling and the location of the proposed porch was submitted and is included as Exhibit A-4.

Robert St. Clair

From: Mike Morgan <mikeattallwoods@gmail.com>
Sent: Tuesday, April 4, 2023 11:01 AM
To: Robert St. Clair; Jeff Taylor
Subject: Taylor Setback Reduction

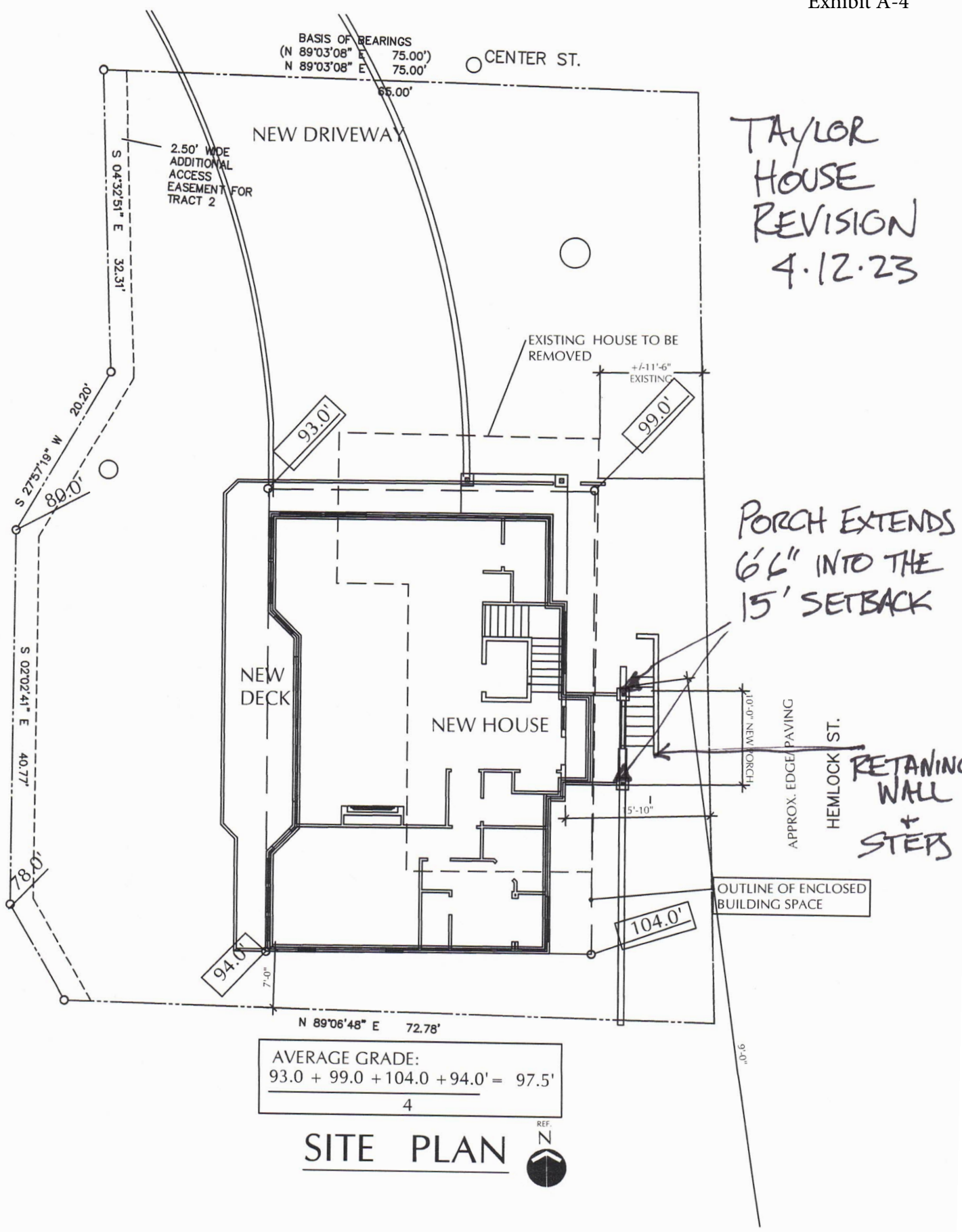
Follow Up Flag: Follow up
Flag Status: Flagged

Robert: on behalf of Jeff and Miriam Taylor I would like to inform you that they agree to a waiver of the 120 day limit on the setback reduction issue.

Mike Morgan

Planning Consultant.

Sent from my iPhone



Robert St. Clair

From: Mike Morgan <mikeattallwoods@gmail.com>
Sent: Friday, April 14, 2023 9:04 AM
To: David Vonada; Jeff Taylor; Robert St. Clair; Karen La Bonte
Subject: Parking 2956 S Hemlock

Follow Up Flag: Follow up
Flag Status: Flagged

Car is on private property. There's about 60-70 feet of asphalt from that edge to the east. House entry would rest on retaining wall on the right.
Sent from my iPhone





CITY OF CANNON BEACH

February 22, 2023

The City of Cannon Beach Public Works department is asking that the Planning Commission please deny the setback reduction request submitted for 1956 S. Hemlock Street.

Over the past year, Windsor Engineering has worked with the Public Works department to design and engineer the plan for the construction to install seismic valves on each of our drinking water reservoir's as well as placing them in strategic locations within town. These valves will allow the water system to detect seismic activity and automatically shut off the valves on our reservoirs to save the loss of our drinking water supply should we experience any type of seismic activity. The area along south Hemlock where this address is located has been identified for the positioning and constructing of one of the seismic valves. By allowing this setback reduction, it will restrict access and limit the area of our right-of-way for the city's ability to complete this critical project.

Public Works is asking the Planning Commission to deny this request based on this critical project.

Karen La Bonte – Director, Public Works

Rick Hudson – Emergency Manager

Marc Reckmann – Fire Chief



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF SR#23-01, MICHAEL MORGAN ON BEHALF OF JEFF AND MIRIAM TAYLOR, REQUESTING A SETBACK REDUCTION AT 1956 S. HEMLOCK ST. (TAXLOT 51030DD04300) FOR A REDUCTION OF THE SIDE YARD SETBACK. THE PURPOSE OF THE SETBACK REDUCTION IS TO ALLOW FOR A GROUND LEVEL EMERGENCY ACCESS ON A PROPOSED NEW SINGLE-FAMILY DWELLING. THE PROPERTY IS IN THE RESIDENTIAL LOWER DENSITY (RL) ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTION 17.64.010, SETBACK REDUCTION, PROVISIONS ESTABLISHED.

Agenda Date: February 23, 2023

Prepared By: Robert St. Clair

GENERAL INFORMATION

NOTICE

Public notice for this February 23, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on February 3, 2023;
- B. Notice was mailed on February 3, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 28, 2022 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Setback Reduction Application SR#23-01, submitted and stamped December 28, 2022;
- A-2** Supplemental narrative, submitted January 31, 2023;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

None received as of this writing;

"D" Exhibits – Public Comment

Non received as of this writing;

SUMMARY & BACKGROUND

Michael Morgan, on behalf of Jeff and Miriam Taylor, is seeking a setback reduction of the required side yard from fifteen feet for a dwelling on a corner lot to five feet to allow for a ground level doorway that would serve as an emergency access for a proposed new single-family dwelling that is intended to replace the existing dwelling. The subject property has significant slopes and the current residence is set into the hillside and is a non-conforming structure as it was built on a retaining wall set twelve feet back from the property line. Plans for the replacement house indicate that it will be built in conformance to current setback standards and this request is for an 84 square foot porch that would extend ten feet into the side yard setback. In the event of a fire or other emergency this would enable direct access to the second floor from Hemlock St.

APPLICABLE CRITERIA

17.10.040, RL Residential Lower Density Zoning District, Standards

In an RL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

- A. *Lot Size. Lot area shall be at least ten thousand square feet. Lots of less than ten thousand square feet may be buildable pursuant to Section 17.82.020; provided, that such lots were not part of an aggregate of contiguous lots with an area or dimension of ten thousand square feet or greater held in a single ownership at the time of enactment of Ordinance 79-4A. Where there are lots held in a single contiguous ownership and one of the lots or combination of lots meets the minimum lot size but the other lot or combination of lots does not meet the minimum lot size, there shall be only one buildable lot. Example: three contiguous lots in a single ownership, each lot with an area of five thousand square feet, constitute one buildable lot. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).*

The planning commission may authorize the placement of a governmental or municipal structure necessary for public service on a lot of less than ten thousand square feet if it is found that a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses.

- B. *Lot Dimensions.*

1. *Lot Width. Lot width shall be at least seventy-five feet.*
2. *Lot Depth. Lot depth shall be at least ninety feet.*
3. *Front Yard. A front yard shall be at least fifteen feet.*
4. *Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.*
5. *Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.*
6. *Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.*

- C. *Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.*

- D. *Floor Area Ratio. The floor area ratio for a permitted or conditional use on a lot of six thousand square feet or more shall not exceed 0.5. The maximum gross floor area for a permitted or conditional use on a lot of more*

than five thousand square feet, but less than six thousand square feet, shall not exceed three thousand square feet. The floor area ratio for a permitted or conditional use on a lot with an area of five thousand square feet or less shall not exceed 0.6.

- E. Building Height. Maximum height of a vertical structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.*
- F. Signs. As allowed by Chapter 17.56.*
- G. Parking. As required by Section 17.78.020.*
- H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.*
- I. Geologic or Soils Engineering Study. As required by Chapter 17.50.*
- J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040(A) through (K) (Standards), shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352.*
- K. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.90.190 has been submitted and approved.*

Staff Comment: Although full plans have not yet been submitted to the City, information provided by the applicant indicates that the proposed replacement structure will be designed to current standards in the Municipal Code with the exception of the requested setback reduction. Prior to issuance of a building permit City staff will review a development application for compliance with established standards for the zoning district. Meets criteria.

17.64, Setback Reduction

17.64.010.A.1: *Total building coverage shall not exceed forty percent.*

Staff Comment: The subject property measures 7,201 square feet and the applicant's materials state that the total building coverage will be 24% or approximately 1,730 square feet. The applicant states that replacement dwelling will be sited largely within the footprint of the existing house. Meets criteria.

17.64.010.A.2: *Significant view of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district.*

Staff Comment: There would be no impacts to any significant views as a result of this proposal. Meets criteria.

17.64.010.A.3: *The proposed building location will not interfere with solar access of buildings on adjoining property.*

Staff Comment: There would be no impacts to solar access for adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.4: *It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the Planning Commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:*

- a. Tree protection,*
- b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*
- d. The provision of solar access,*
- e. Permitting construction on a lot with unusual configuration,*
- f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,*
- g. Protection of a wetland or wetland buffer area, or*
- h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.*

Staff Comment: There would be no significant impacts to privacy, drainage, light, air, noise reduction, and fire safety for adjacent property owners as a result of this proposal. As per the application materials the current house and its proposed replacement are positioned in a way two large Sitka Spruce trees on the northern and western portions of the lot will be preserved with minimal potential for damage to their root systems. Meets criteria.

17.64.010.A.5: *Adjacent rights-of-way have sufficient width for utility placement or other public purposes.*

Staff Comment: There would be no impacts to rights-of-way resulting from this proposal. Meets criteria.

17.64.010.A.6: *The reduction would not create traffic hazards; or impinge upon a public walkway or trail.*

Staff Comment: There would be no traffic impacts resulting from this proposal. Condition of approval #1 would prohibit the use of the Hemlock St. frontage for vehicle parking. Additionally, this portion of Hemlock St. is posted as a no parking area. Meets criteria.

17.64.010.A.7: *Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property.*

Staff Comment: There would be no changes in the amount of privacy enjoyed by adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.8: *The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.*

Staff Comment: The proposal would not interfere with the ability to provide fire protection to surrounding structures and may enhance fire safety to the proposed dwelling by providing an alternative means of access from Hemlock St in addition to the primary access on Center St. Meets criteria.

PROCEDURAL REQUIREMENTS

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The application was submitted on December 28, 2022 and determined to be complete on January 6, 2023. Based on this, the City must complete its review of this proposal by May 6, 2023.

The Planning Commission's February 23rd hearing will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to the hearing to request a continuance. The Planning Commission should grant any request for a continuance of this hearing. The Planning Commission's next regularly scheduled hearing date is March 23, 2023.

RECOMMENDATION

Staff recommends approval, with the conditions below.

DECISION AND CONDITIONS

Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (approve/approve with conditions/or deny) the Michael Morgan application for a setback reduction, **SR# 23-01**, as discussed at this public hearing (subject to the following conditions):

1. The portion of the property fronting Hemlock St. shall not be used for vehicle parking.
2. A building permit shall be obtained before starting construction.

Notice of Approval

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15)

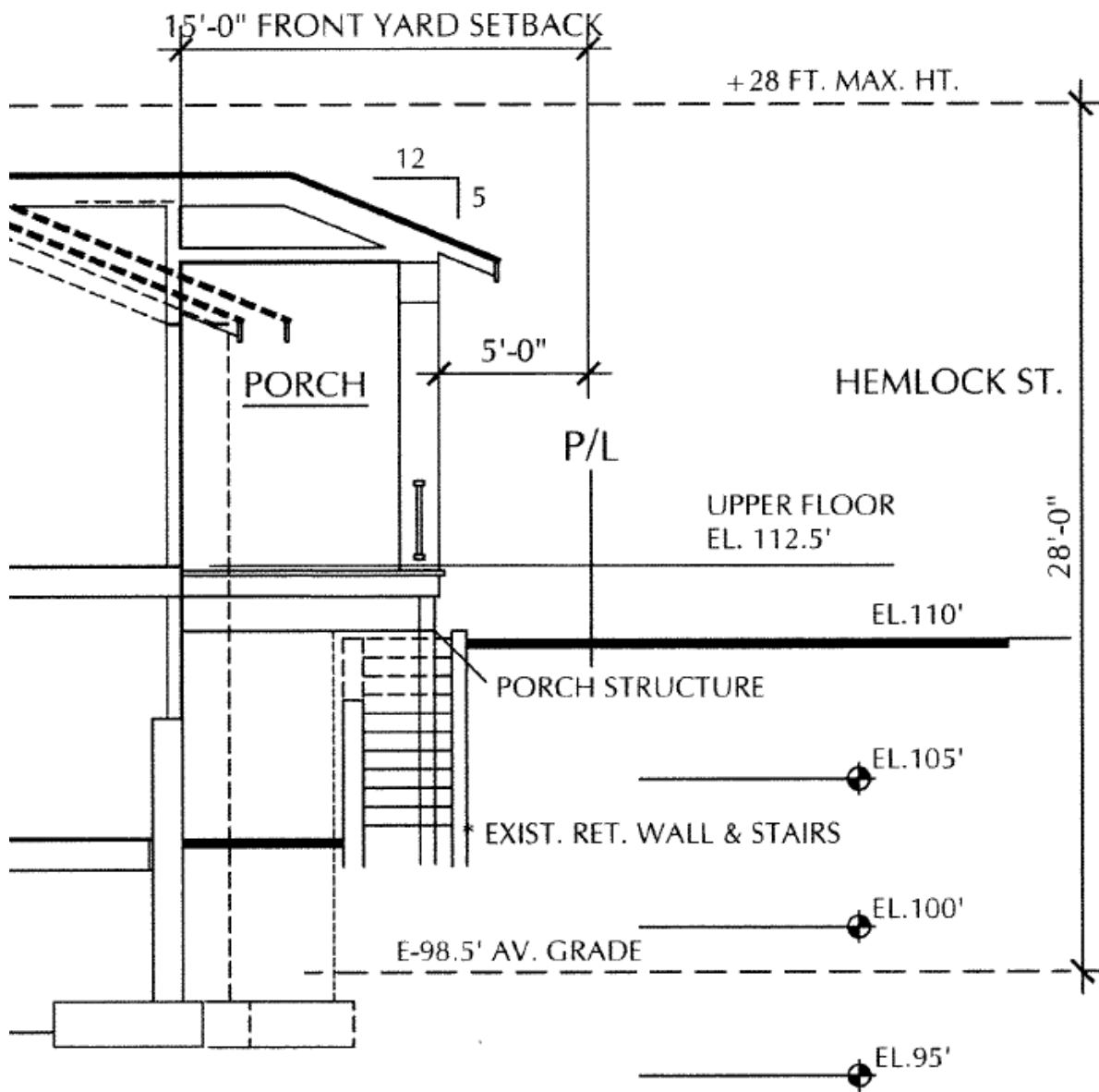
Site Map



Google Street View Image of Existing House and Proposed Setback Area



Applicant Submitted Diagram of Proposed Hemlock St. Access





CITY OF CANNON BEACH

City of Cannon Beach
Finance Department

SETBACK REDUCTION APPLICATION

DEC 28 2022

Received

Please fill out this form completely. Please type or print.

Applicant Name: MIKE MORGAN
 Email Address: HMINCO@PACIFIER.COM
 Mailing Address: PO Box 132 CB 97110
 Telephone: 503 739 0102

Property-Owner Name: JEFF AND MIRIAM TAYLOR
 (if other than applicant)
 Mailing Address: 2005 W. HUNTSVILLE ST BROKEN ARROW, OK 74011
 Telephone: (918) 261 9705
 Property Location: 1956 S. HEMLOCK
 (street address)
 Map No.: 5 10 30DD Tax Lot No.: 4300

SETBACK REDUCTION REQUEST:

City of Cannon Beach
Finance Department

1. Description of the setback reduction that is being sought.

DEC 28 2022

PLEASE SEE ATTACHED FINDINGS

PAID

2. Description of the proposed building plans pertinent to the setback reduction request.

3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

(a) Total building coverage shall not exceed forty percent;

City of Cannon Beach
PO Box 368
Cannon Beach OR 97110

503-436-1581

Receipt No: 15.004295

Dec 28, 2022

Mike Morgan

Previous Balance:	.00
Planning Dept - Fees - Planning - Setback Reduc. App. 1956 S. Hemlock	500.00

Total:	500.00
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Check	Check No: 1090	500.00
Payor: Mike Morgan and Beth Holland		

Total Applied:	500.00
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Change Tendered:	.00
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Duplicate Copy

12/28/2022 11:52 AM

(b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

(c) The proposed building location will not interfere with solar access of buildings on adjoining property;

(d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;



g) Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

h) The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.

8. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Attach additional sheets as necessary.

Setback Application Fee: \$500.00

Applicant Signature:  Date: 12 23 22
Property Owner Signature:  Date: 12/24/2022

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)

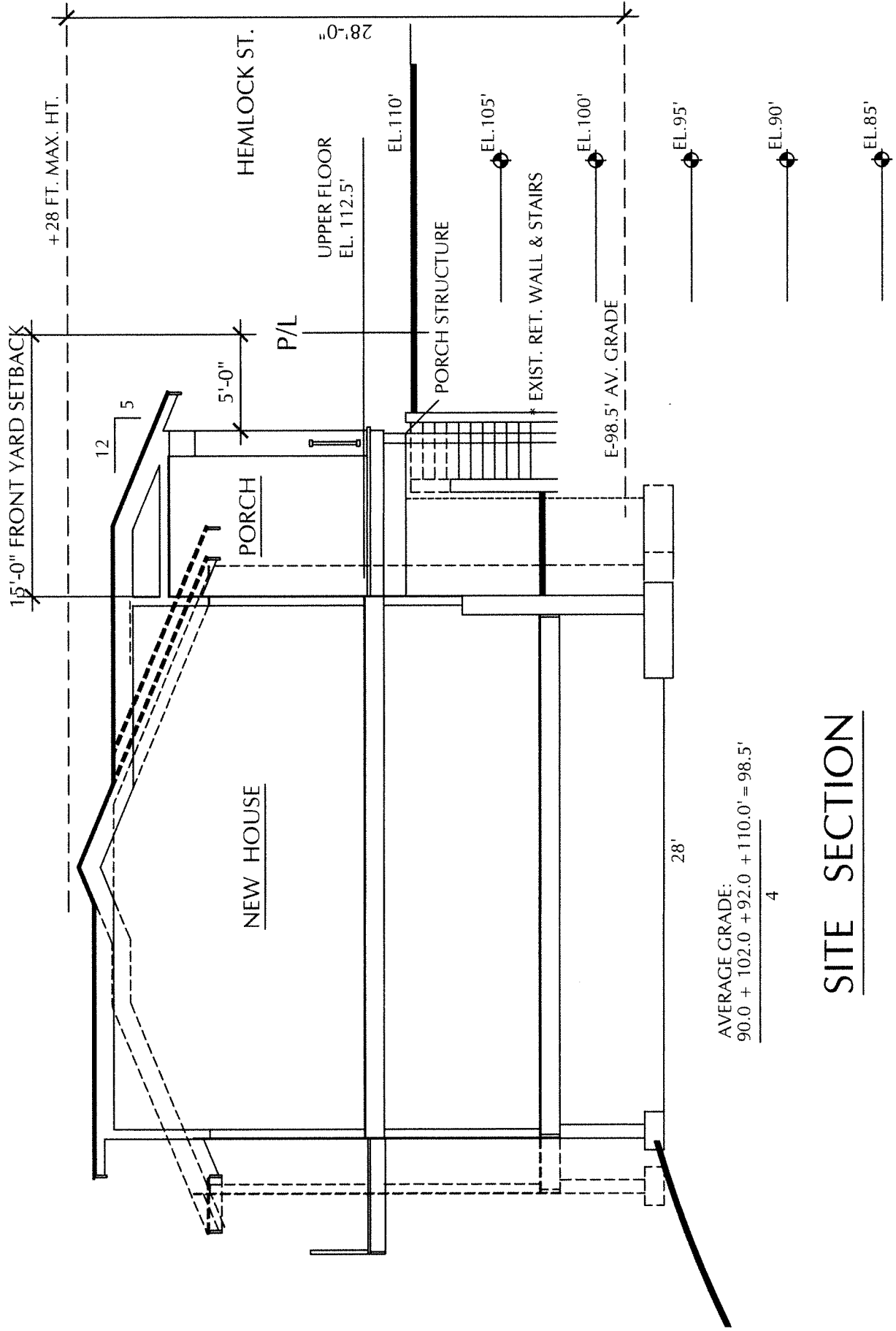
Proposed Findings of Fact Taylor Setback Reduction Request 12/27/22

1. Description: The owners of the property, Jeff and Miriam Taylor, propose to replace an existing house at 1956 S. Hemlock St. with a new retirement home. The proposed dwelling would be built essentially on the footprint of the existing house, which was built in 1969 and is 1,333 square feet. The existing house was built into the 15 foot setback along with a retaining wall and set of concrete steps for access. A portion of the new structure, a small porch of approximately 72 square feet, would if approved extend into the setback a distance of 10'. The purpose of the porch is emergency access. The structure consists of three levels, 1352 square feet on the top floor, 1327 square feet on the middle floor and 201 square feet on the bottom. In the event of fire the proposed exit would enable residents on the top floor to access Hemlock Street without going down to the bottom level. The main portion of the house itself would meet the 15' side yard setback requirement. The concrete steps and retaining wall will remain, as recommended by the geologic report. The primary access for the house is on the north side, as shown on the attached site plan.
2. Description of the proposed building plans pertinent to the setback reduction request: The porch is small, at 84 square feet. The east wall of the new house will be within the 15' setback requirement. The total square footage of the new house is 3,597, although the livable area is 2880 square feet excluding the garage and decks, porches, etc. The lot is 7201 square feet. The floor area ratio is 48%. Due to the steepness of the lot, the house will have three levels, with the garage at grade. The design also incorporates an elevator, which adds to the square footage.
3. Justification of the setback reduction request:
 - (a) Total building coverage or lot coverage would be 24%. The lot is irregular in shape and is steep, over 30%. Therefore, the design is intended to keep the new structure on the footprint of the old house. This will utilize the existing retaining wall and the most stable portion of the lot.

- (b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district. The property to the east is a parking area used to access the ocean via Center Street, and the land east of that is the State Park. The impact on views will be the same regardless of whether the house meets the setback requirement or not. No adjacent homes will be affected.
- (c) Solar access will not be impacted by the small intrusion into the east setback. The owners' lot extends to Center Street to the north, and contains two large Sitka Spruce trees which will remain.
- (d) The request meets several of the criteria of the code: Rebuilding on the existing footprint will preserve two large Spruce trees to the north. The owners could have designed the house on the northern portion of the lot which would have eliminated these trees, but have decided to preserve them. These trees are two of the largest multi-branched specimens in the area. In terms of avoidance of difficult topography, the lot is quite steep (30%), and has an unusual configuration. The design is intended to utilize the existing footprint as recommended by the geologic report, retaining most of the oversized lot in open space. The design situated on the north end of the lot provides privacy and distance for the home to the west.
- (e) Adjacent rights-of-way have sufficient width for utility placement or other public purpose. Neither Hemlock nor Center Streets will be affected in terms of traffic, utility access, or other public purpose.
- (f) The setback reduction will not create traffic hazards; or impinge on a public walkway or trail. The parking lot east of the Hemlock right-of-way is a popular access for Center Street.

Conclusion

It is the applicant's opinion that the setback reduction meets the criteria of the zoning code, and should be approved.

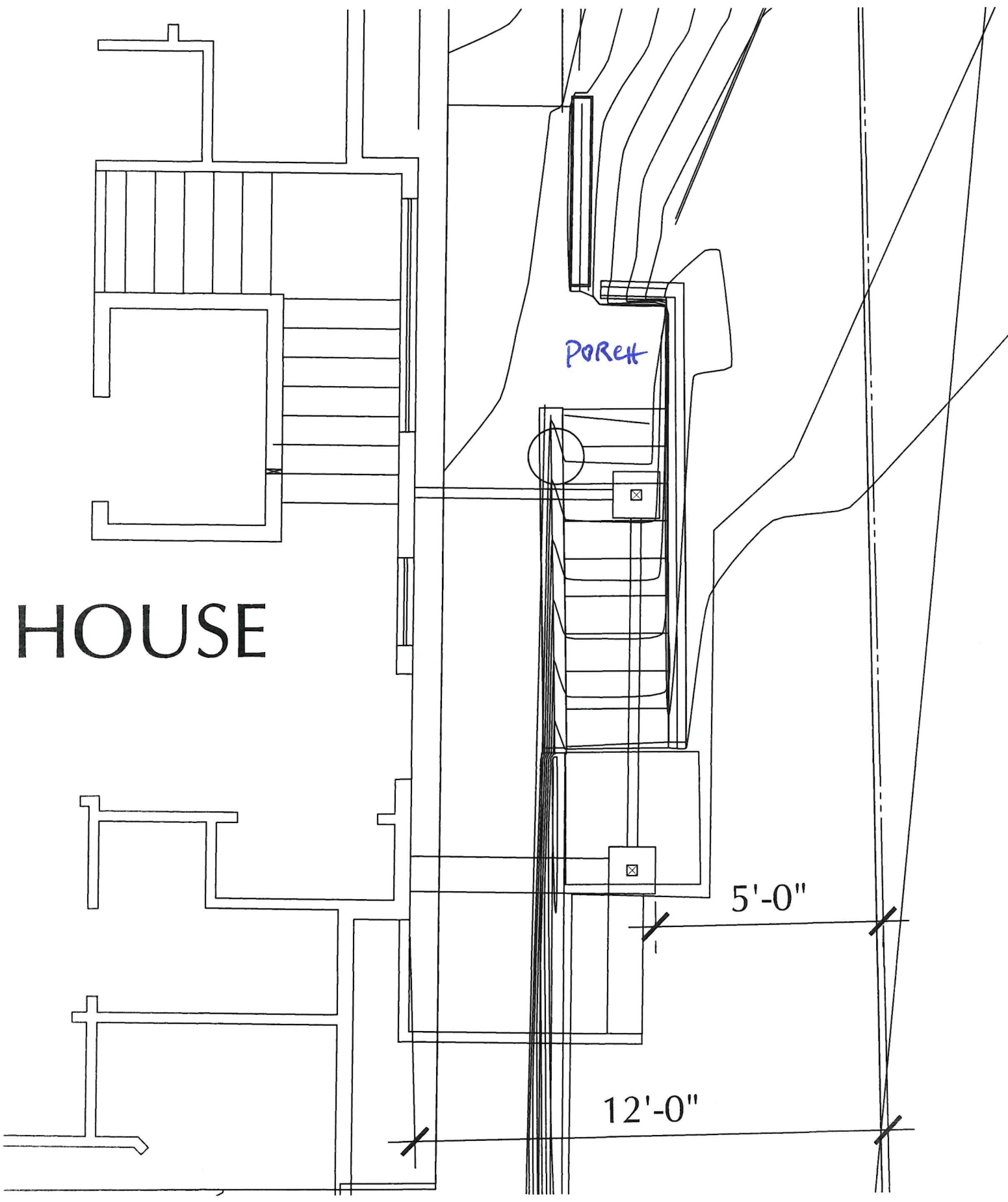


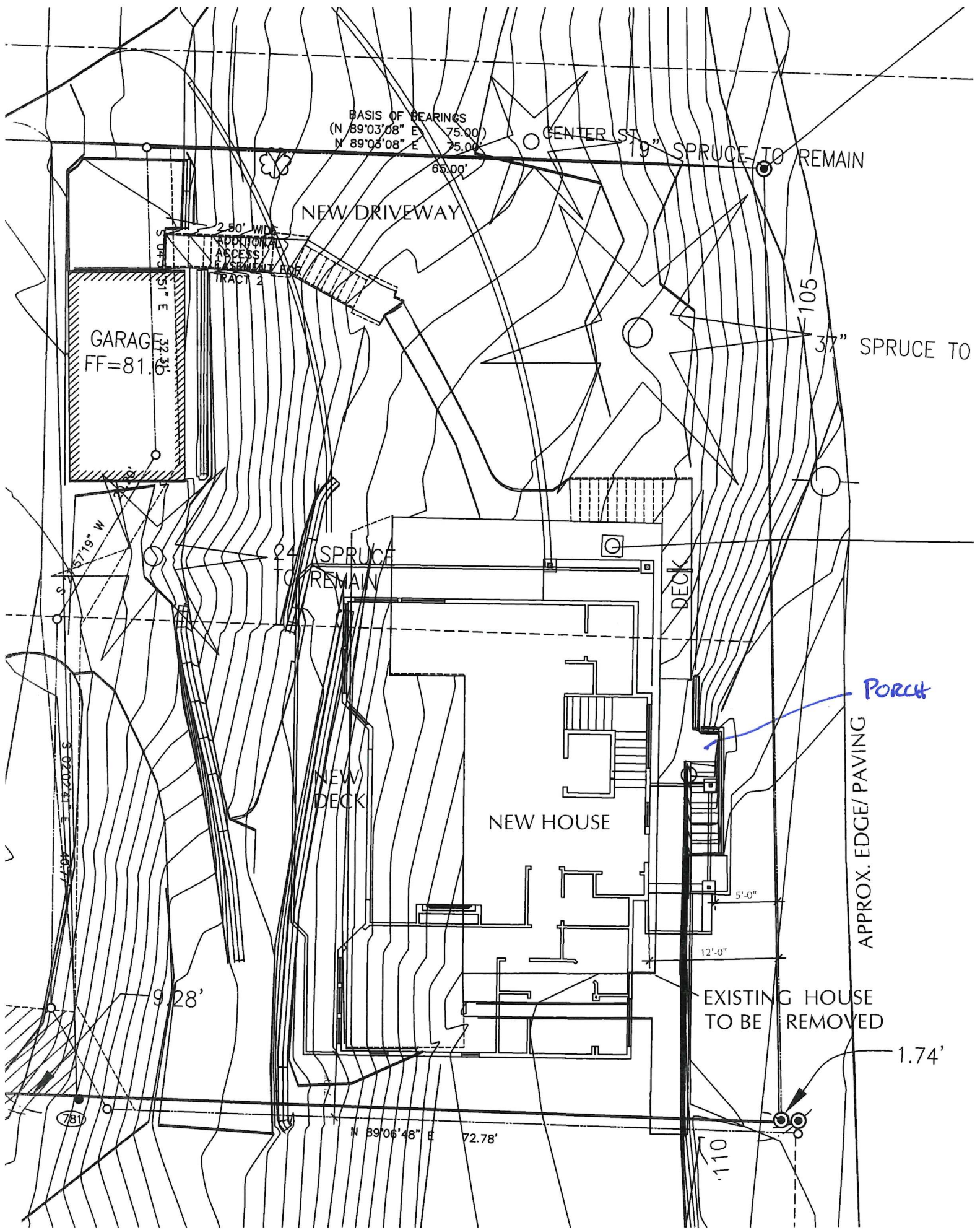
HOUSE

POREH

5'-0"

12'-0"





BASIS OF BEARINGS
(N 89°03'08" E 75.00')
(N 89°03'08" E 75.00')

CENTER ST 19" SPRUCE TO REMAIN

NEW DRIVEWAY

2.50' WIDE
ADDITIONAL
ACCESS
TO SEWAGE
TRACT 2

GARAGE
FF=81.0

105
37" SPRUCE TO

24" SPRUCE
TO REMAIN

DECK

Porch

NEW DECK

NEW HOUSE

APPROX. EDGE/PAVING

EXISTING HOUSE
TO BE REMOVED

1.74'

N 89°06'48" E 72.78'

110

Proposed Findings of Fact Taylor Setback Reduction Request 1/30/23

1. Description: The owners of the property, Jeff and Miriam Taylor, propose to replace an existing house at 1956 S. Hemlock St. with a new retirement home. The proposed dwelling would be built essentially on the footprint of the existing house, which was built in 1969 and is 1,333 square feet. The existing house was built into the 15-foot setback along with a retaining wall and set of concrete steps for access. The existing house does not comply with the 15 foot setback as it was built prior to zoning requirements were adopted. At the south end the house is 12.5 feet from the property line and on the north end the house is 11.5 feet from the property line. On the new house, a portion of the new structure, a small porch of approximately 84 square feet, would, if approved, extend into the setback a distance of 10'. The purpose of the porch is emergency access. The structure consists of three levels, 1352 square feet on the top floor, 1327 square feet on the middle floor and 201 square feet on the bottom. In the event of fire the proposed exit would enable residents on the top floor to access Hemlock Street without going down to the bottom level. The south corner of the house meets the 15 foot side yard setback requirement, but because of the angle of the property the northeast corner is 11.5 feet from the property line. The concrete steps and retaining wall will remain, as recommended by the geologic report. The primary access for the house is on the north side, as shown on the attached site plan.
2. Description of the proposed building plans pertinent to the setback reduction request: The porch is small, at 84 square feet. The total square footage of the new house is 3,432, although the livable area is 2880 square feet excluding the garage and decks, porches, etc. The lot is 7201 square feet. The floor area ratio is 48%. Due to the steepness of the lot, the house will have three levels, with the garage at grade.
3. Justification of the setback reduction request:
 - (a) Total building coverage or lot coverage would be 24%. The lot is irregular in shape and is steep, over 30%. Therefore, the design is

- intended to keep the new structure on the footprint of the old house. This will utilize the existing retaining wall and the most stable portion of the lot.
- (b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district. The property to the east is a parking area used to access the ocean via Center Street, and the land east of that is the State Park. The impact on views will be the same regardless of whether the house meets the setback requirement or not. No adjacent homes will be affected.
 - (c) Solar access will not be impacted by the small intrusion into the east setback. The owners' lot extends to Center Street to the north, and contains two large Sitka Spruce trees which will remain.
 - (d) The request meets several of the criteria of the code: Rebuilding on the existing footprint will preserve two large Spruce trees, one to the north and one to the west. The house is positioned to preserve these trees and not damage the root systems. The owners could have designed the house on the northern portion of the lot which would have eliminated these trees, but have decided to preserve them. These trees are two of the largest multi-branched specimens in the area. In terms of avoidance of difficult topography, the lot is quite steep (30%), and has an unusual configuration. The design is intended to utilize the existing footprint as recommended by the geologic report, retaining most of the oversized lot in open space. Building on the south end of the lot provides privacy and distance from the home to the west.
 - (e) Adjacent rights-of-way have sufficient width for utility placement or other public purpose. Neither Hemlock nor Center Streets will be affected in terms of traffic, utility access, or other public purpose.
 - (f) The setback reduction will not create traffic hazards; or impinge on a public walkway or trail. The parking lot east of the Hemlock right-of-way is a popular access for Center Street.

In addition, the code allows a setback intrusion of three feet into a required yard if it is on the ground floor.

2. A covered entry to a dwelling may project not more than thirty-six inches into a required front yard, rear yard or street side yard where the entry provides access to the first story of the dwelling, as the term story is defined in the building code. The covered entry is limited to no more than ten feet in length and shall be completely open on all sides. The entry may be

accessed by no more than three risers. Covered entries and stairs may not project into a required ocean yard. Sec 17.90.070

While this is not access to the first story, and extends 10 feet into the setback, it serves the same purpose as the entry allowed by this exception.

Conclusion

It is the applicant's opinion that the setback reduction meets the criteria of the zoning code, and should be approved.



Location of east property line on Hemlock Street.



Approximate location (between planters) of east emergency access on Hemlock Street



CITY OF CANNON BEACH

February 3, 2023

SR 23-01, Mike Morgan, on behalf of Jeff and Miriam Taylor, application to allow a setback reduction to reduce the back yard setback from the required 15'0" to 5' in order to build a small porch of 72 square feet to be used as an emergency access. The property is located at 1956 S Hemlock. (Tax Lot 04300, Map 51030DD), and in a Residential Medium Density (R2) Zone. The request will be reviewed against the Municipal Code, Section 17.645.010, Setback Reduction, Provisions Established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADD	PO_BOX	CITY	STATE	ZIP_CODE
51030DD04300	1956 S Hemlock St	Taylor Jeffery	2005 W Huntsville St		Broken Arrow	OK	74011
51030DD04302	1980 S Hemlock St	Wicher Donna C	PO Box 1938	1938	North Plains	OR	97133-1938
51030DD04200	1927 Pacific St	Clarke Leslie F/Valarie L	7900 NW North Vale Way		Portland	OR	97225
51030DD04205	108 Center St	Horner Trust Partnership	15778 NW Clubhouse Dr		Portland	OR	97229
51030DD04701		Oregon Parks and Recreation Dept	725 Summer St #C		Salem	OR	97301
51030DD04400	1963 Pacific St	Silvester Family Trust	PO Box 1385	1385	Cannon Beach	OR	97110
51030DD04600	159 Center St	Silvester Family Trust	PO Box 1385	1385	Cannon Beach	OR	97110
51030DD04203	1939 Pacific St	Kelley Tamara L fna	924 SW Palatine St		Portland	OR	97219-7638
51030DD04500		Neupert K J Beach House Trust	4075 SW Charming Way		Portland	OR	97225
51030DD04202	1935 S Pacific St	Chambers Beachhouses LLC	9250 W Bay Harbor Dr #7C		Bay Harbor Island	FL	33154
51031AA07800		Haystack Rock LLC	4332 SW Semler Way		Portland	OR	97221
51030DD08900		Neupert Beach House Trust	4075 SW Charming Way		Portland	OR	97225
51031AA07700		Haystack Rock LLC	4332 SW Semler Way		Portland	OR	97221
51030DD04301		Taylor Jeffery	2005 W Huntsville St		Broken Arrow	OK	74011



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF SR#23-03 AND V#23-02, MICHAEL MORGAN ON BEHALF OF BRETT & JENNIFER TANZER, REQUESTING A SETBACK REDUCTION AND VARIANCE TO FLOOR AREA RATIO LIMITATIONS AT 663 OCEAN AVE (TAXLOT 13100, MAP 51030AA). THE PURPOSE OF THE APPLICATIONS IS TO ALLOW FOR THE ADDITION OF AN ACCESSORY DWELLING UNIT TO AN EXISTING GARAGE. THE PROPERTY IS IN THE RESIDENTIAL MEDIUM DENSITY (R2) ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTION 17.64 SETBACK REDUCTION AND SECTION 17.84 VARIANCES, PROVISIONS ESTABLISHED.

Agenda Date: April 27, 2023

Prepared By: Robert St. Clair, Planner
Community Development Department

GENERAL INFORMATION

NOTICE

Public notice for this April 27, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on April 7, 2023;
- B. Notice was mailed on April 7, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on February 24, 2023 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1 Setback Reduction Application SR#23-03, submitted and stamped February 24, 2023;
- A-2 Variance Request Application V#23-02, submitted and stamped March 31, 2023;
- A-3 SR#23-02 Supplemental Narrative, submitted March 30, 2023;
- A-4 V#23-01 Supplemental Narrative, submitted April 11, 2023;
- A-5 Supplemental Photographs, submitted April 11, 2023;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

None received as of this writing;

“D” Exhibits – Public Comment

Non received as of this writing;

SUMMARY & BACKGROUND

Michael Morgan, on behalf of Brett & Jennifer Tanzer, is seeking a setback reduction from the required rear yard setback of 15 feet to 2 feet and the side yard setback from 5 feet to 1 foot 7 inches to allow the modification of a pre-existing non-conforming detached garage for the addition of a second story accessory dwelling unit. Additionally, a variance to change the floor area ratio limitation from 0.6 to 0.62 in conjunction with this project is requested.

The detached garage is valued at \$34,511 by the Clatsop County Assessor’s Office and is located in such a way that it is in close proximity to the property lines in the northwestern corner of the subject property. Cannon Beach Municipal Code states that alterations of pre-existing non-conforming structures that exceed 50% of the fair market value of the building, a threshold that the addition of an ADU would exceed, may be authorized under the provisions of Chapter 17.64, Setback Reduction.

The proposed alteration of the garage will reduce the lot coverage of the subject property as the footprint of the garage will be reduced, however the habitable floor area would increase because of this proposal. At present the FAR is currently 2,921 square feet on a 5,000 square foot lot or 0.58. The proposal will increase the FAR to approximately 3,100 square feet or 0.62. The Municipal Code states that variances such as the one requested may be granted where a literal interpretation of a specific requirement results in practical difficulties, where the granting of a variance would support policies contained in the Comprehensive Plan, and where the granting of a variance would not be detrimental to public health and safety or injurious to properties in the vicinity.

APPLICABLE CRITERIA

R2 Residential Moderate Density Zoning District

17.14.040 Standards Residential Moderate Density Development Standards

In an R2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

- A. *Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to Section 17.82.020. The minimum lot size for a single-family dwelling shall be five thousand square feet. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).*
- B. *Lot Dimensions.*
 - 1. *Lot Width. Lot width shall be at least forty feet.*
 - 2. *Lot Depth. Lot depth shall be at least eighty feet.*
 - 3. *Front Yard. A front yard shall be at least fifteen feet.*
 - 4. *Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.*
 - 5. *Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.*

6. *Yard Abutting the Ocean Shore.* For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.
- C. *Lot Coverage.* The lot coverage for a permitted or conditional use shall not exceed fifty percent.
 - D. *Floor Area Ratio.* The floor area ratio for a permitted or conditional use shall not exceed 0.6.
 - E. *Building Height.* Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.
 - F. *Signs.* As allowed by Chapter 17.56.
 - G. *Parking.* As required by Section 17.78.020.
 - H. *Design Review.* All uses except single-family dwellings and their accessory structures are subject to design review of Chapter 17.44.
 - I. *Geologic or Soils Engineering Study.* As required by Chapter 17.50.
 - J. *Claims for Compensation Under ORS 197.352.* The standards of Section 17.08.040(A) through (K) (Standards), shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352.
 - K. *Site Plan.* Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.90.190 has been submitted and approved.

Staff Comment: The lot coverage which comprises of structures, driveways, patios, and other surfaces is currently 2,317 square feet or 46%. This application would reduce the overall lot coverage through the reduction in size of the garage and the replacement of the existing driveway with one that uses grasscrete blocks. The proposal satisfies off-street parking requirements and there is sufficient space for three vehicles. An application has been submitted for review by the Design Review Board and this item will be heard on April 20, 2023. Meets criteria.

Chapter 17.64, Setback Reduction

17.64.010.A.1: *Total building coverage shall not exceed forty percent.*

Staff Comment: As per the applicant's materials, building coverage on the lot is currently 1,760 square feet with 1,188 square feet for the house and 572 square feet for the detached garage. For a 5,000 square foot lot this results in building coverage of approximately 35%. With the proposed reduction in the footprint of the garage from 572 to 352 square feet, the total building coverage will be 1,540 square feet or 31%. Meets criteria.

17.64.010.A.2: *Significant view of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district.*

Staff Comment: There would be no impacts to any significant views as a result of this proposal. Meets criteria.

17.64.010.A.3: *The proposed building location will not interfere with solar access of buildings on adjoining property.*

Staff Comment: There would be no impacts to solar access for adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.4: *It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the Planning Commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:*

- a. Tree protection,*
- b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*
- d. The provision of solar access,*
- e. Permitting construction on a lot with unusual configuration,*
- f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,*
- g. Protection of a wetland or wetland buffer area, or*
- h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.*

Staff Comment: There would be no significant impacts to privacy, drainage, light, air, noise reduction, and fire safety for adjacent property owners as a result of this proposal. No trees will be removed as part of this proposal. Meets criteria.

17.64.010.A.5: *Adjacent rights-of-way have sufficient width for utility placement or other public purposes.*

Staff Comment: There would be no impacts to rights-of-way resulting from this proposal. Meets criteria.

17.64.010.A.6: *The reduction would not create traffic hazards; or impinge upon a public walkway or trail.*

Staff Comment: There would be no traffic impacts resulting from this proposal. Meets criteria.

17.64.010.A.7: *Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property.*

Staff Comment: There would be no significant changes in the amount of privacy enjoyed by adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.8: *The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.*

Staff Comment: There are no identified impacts the ability to provide fire protection to this or adjacent structures as a result of this application. Meets criteria.

Chapter 17.84, Variances

17.84.010 Purpose.

The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties or unnecessary physical hardships may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other conditions on the site or in the immediate vicinity or from population densities, street location or traffic conditions in the immediate vicinity. No variance shall be granted to allow the use of a property for a purpose not authorized within the zone in which the proposed use would be located. (Ord. 79-4 § 1 (8.010))

17.84.030 Criteria for granting.

- A. Variances to a requirement of this title, with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all four expressly written findings are made:
 - 1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the comprehensive plan; and
 - 2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and
 - 3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the near vicinity; and
 - 4. That the granting of the variance would support policies contained within the comprehensive plan.
- B. Variances in accordance with this section should not ordinarily be granted if the special circumstances on which the applicant relies are a result of the actions of the applicant, or owner, or previous owners. (Ord. 79-4 § 1 (8.030))

Staff Comment: The applicant's materials make the argument that there is a practical difficulty in adding an ADU to the property that would comply with FAR limitations as placement options are limited, there are no ready opportunities to reduce the size of the primary dwelling, and adaptive reuse of the garage is the most practical means of making the addition. The increase in square footage is relatively insignificant and is not anticipated to have any impact on surrounding properties. The application does support the Comprehensive Plan policies, specifically the Goal 10 Housing Element which states:

- 1. *In order to maintain the city's village character and its diverse population, the city will encourage the development of housing which meets the needs of a variety of age and income groups, as well as groups with special needs.*
- 2. *To the extent possible, the city shall endeavor to accommodate affordable housing in a manner that disperses it throughout the community rather than concentrating it as specific locations.*

Municipal Code section 17.54.080(J) prohibits the use of ADUs as a short term rental, therefore their development effectively increases the amount of overall housing supply in the city. As there is little in the way of readily developable land that can be used to increase housing supply within city limits, alternative concepts such as ADUs which increase density while still preserving a detached housing environment such as that found in Cannon Beach's residential neighborhoods are a practical method of increasing the supply.

The requested variance is not the result of a self-created hardship or a means of correcting a land use violation. Meets criteria.

PROCEDURAL REQUIREMENTS

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The application was submitted on February 24, 2023 and determined to be complete on that date. Based on this, the City must complete its review of this proposal by June 24, 2023.

The Planning Commission's April 27th hearing will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to the hearing to request a continuance. The Planning Commission should grant any request for a continuance of this hearing. The Planning Commission's next regularly scheduled hearing date is May 25, 2023.

RECOMMENDATION

Staff recommends approval, with the conditions below.

1. Design Review Board approval of file DRB 23-04 for the alteration of an existing dwelling for the purpose of constructing an Accessory Dwelling Unit.
2. The ADU shall not be used as a short-term rental as per Municipal Code 17.54.080(J).
3. A building permit shall be obtained before starting construction.

DECISION AND CONDITIONS

Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (approve/approve with conditions/or deny) the Michael Morgan application for a setback reduction, **SR# 23-03** as discussed at this public hearing (subject to the following conditions):

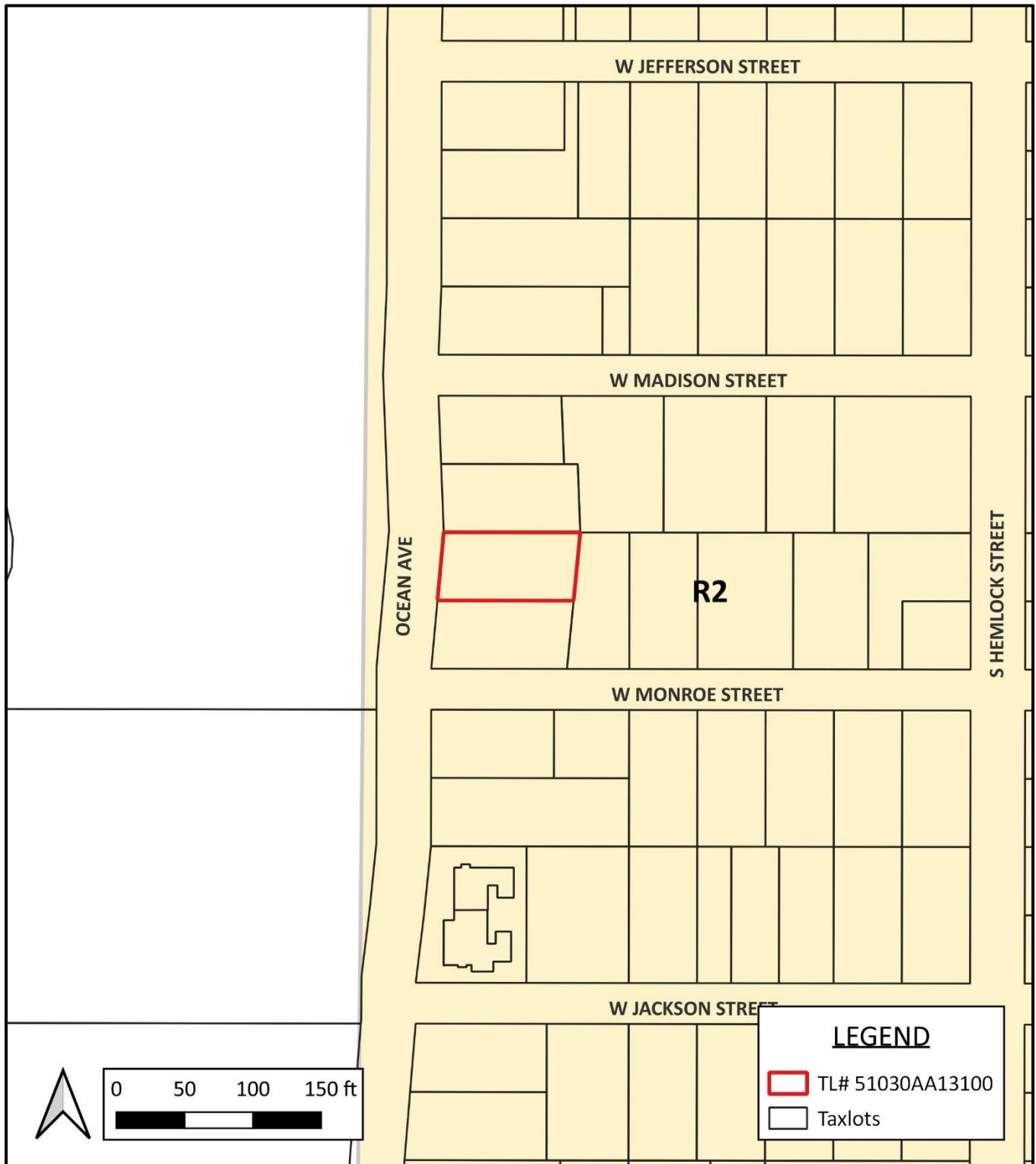
Motion: Having considered the evidence in the record, based on a motion by Commission (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (approve/approve with conditions/or deny) the Michael Morgan application for a variance, **V# 23-02**, as discussed at this public hearing (subject to the following conditions):

Notice of Approval

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15)

Site Map with Zoning Information, SR#23-03 and V#23-02





CITY OF CANNON BEACH

City of Cannon Beach
Finance Department

FEB 24 2023

Received

SETBACK REDUCTION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: MIKE MORGAN
 Email Address: HMINC@PACIFICER.COM
 Mailing Address: P O Box 132 CB 97110
 Telephone: 503 739 0102

Property-Owner Name: BRETT AND JENNIFER TANZER
 (if other than applicant)
 Mailing Address: 3041 106TH AVE SE BELLEVUE, WA 98004
 Telephone: 631 559 0506
 Property Location: 663 OCEAN AVENUE
 (street address)

Map No.: 5-10 30AA Tax Lot No.: 13100

SETBACK REDUCTION REQUEST:

1. Description of the setback reduction that is being sought.

PLEASE SEE ATTACHED FINDINGS OF FACT

2. Description of the proposed building plans pertinent to the setback reduction request.

3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

(a) Total building coverage shall not exceed forty percent;

(b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

(c) The proposed building location will not interfere with solar access of buildings on adjoining property;

(d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

- b. Explain any exceptional or extraordinary circumstances or conditions that are applicable to this property or to the intended use of the property which do not generally apply to other properties in the same zone.
- c. Explain why the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the near vicinity.
- d. Explain how this request, if granted, would support policies contained within the Comprehensive Plan.
- e. Explain why this request is not a self-imposed hardship or difficulty.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Fee: \$500.00

Applicant Signature: [Signature] Date: 2-23-23
 Property Owner Signature: [Signature] Date: 02-10-2023

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners. As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

City of Cannon Beach
 Finance Department

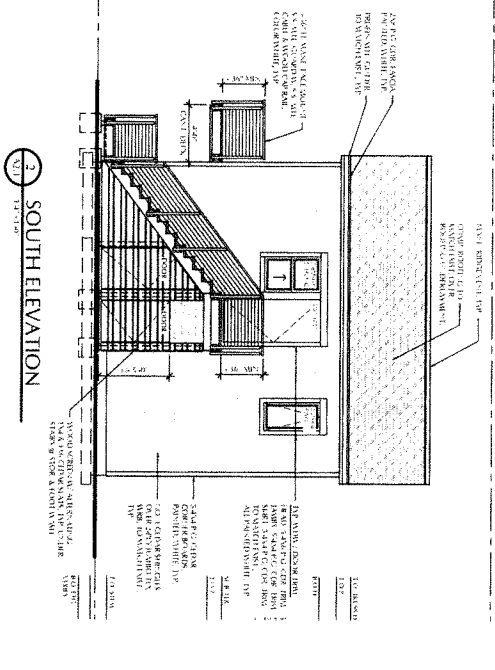
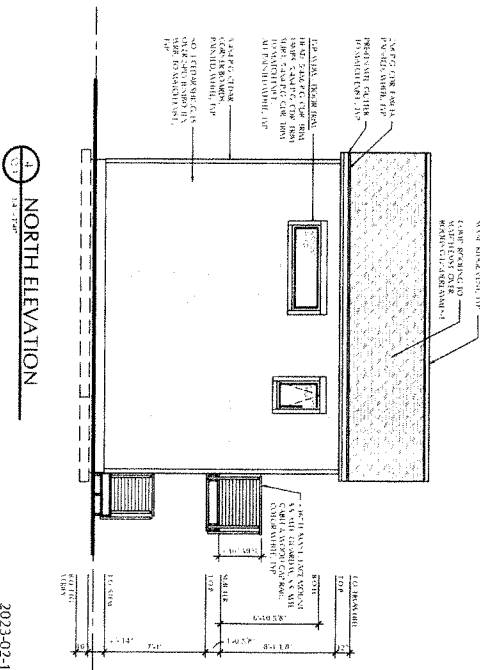
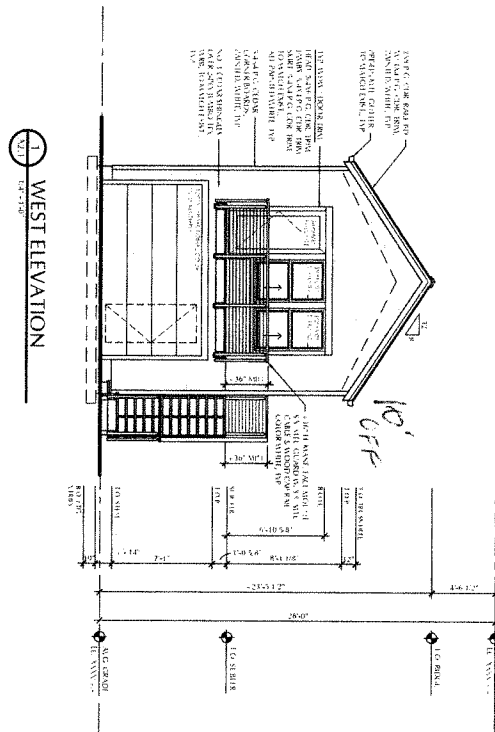
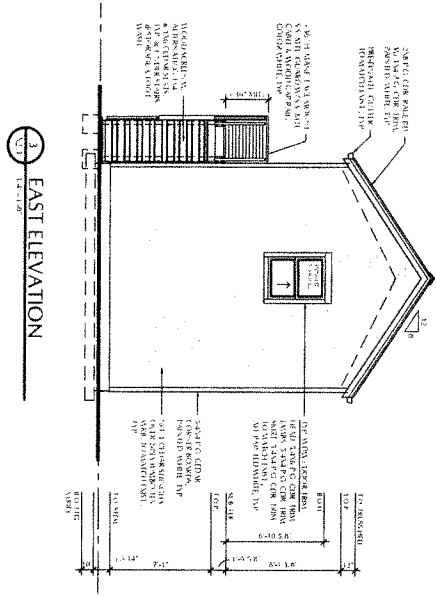
FEB 24 2023

Received on: _____ By: _____
 Fee Paid: _____ Receipt No.: _____ PAID

Fees:

803 - Planning \$500
 (Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050
www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us



2023-02-16
 CANNON BEACH PLANNING VARIANCE
 & DESIGN REVIEW

A2.1

NO.	DATE	DESCRIPTION
1	02/16/23	ISSUED FOR PERMIT
2	02/16/23	ISSUED FOR PERMIT
3	02/16/23	ISSUED FOR PERMIT
4	02/16/23	ISSUED FOR PERMIT
5	02/16/23	ISSUED FOR PERMIT
6	02/16/23	ISSUED FOR PERMIT
7	02/16/23	ISSUED FOR PERMIT
8	02/16/23	ISSUED FOR PERMIT
9	02/16/23	ISSUED FOR PERMIT
10	02/16/23	ISSUED FOR PERMIT

GARAGE / A.D.U. PLANS FOR
 TANZER FAMILY
 663 OCEAN AVE.
 CANNON BEACH, OR 97110

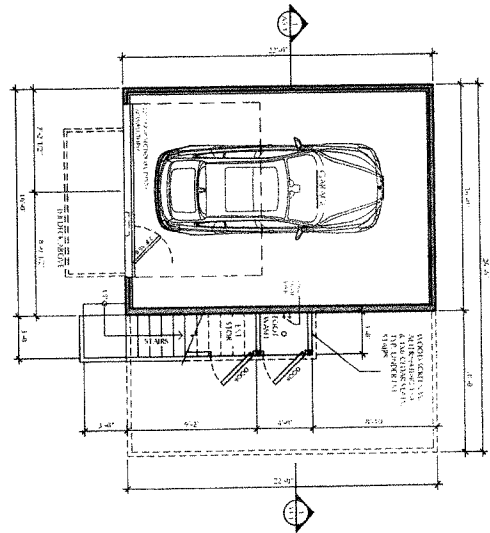
CANNON BEACH
 PLANNING VARIANCE
 & DESIGN REVIEW



Tolovana Architect LLC
 P.O. Box 648
 Tolovana Park, Oregon 97145

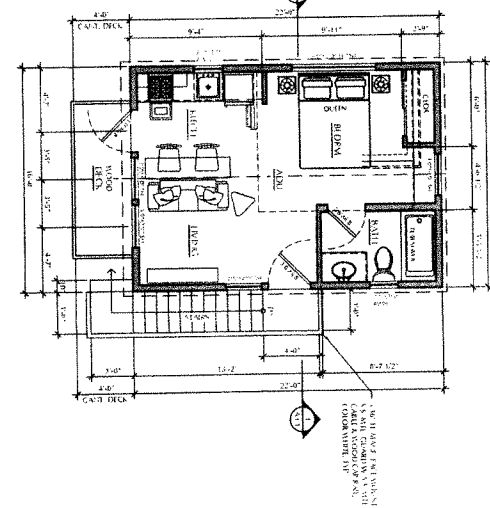
1 GARAGE PLAN

CLIPPING
 1/2" = 1'-0"



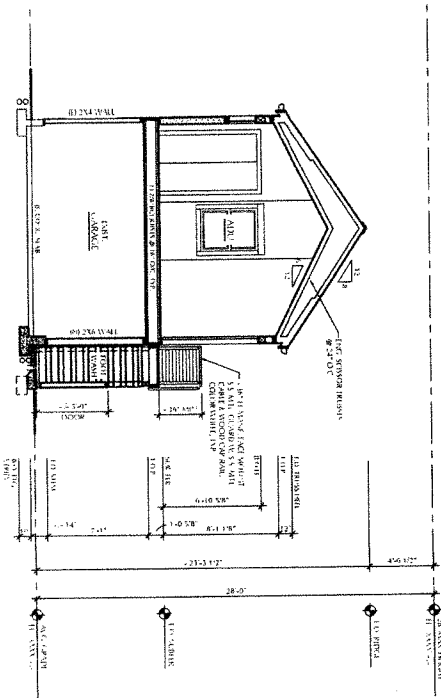
2 ADU PLAN

CLIPPING
 1/2" = 1'-0"



3 N/S SECTION

CLIPPING
 1/2" = 1'-0"



A1.1

FLOOR PLANS
 & SECTION

NO.	DATE	DESCRIPTION
1	2023-02-16	ISSUED FOR PERMIT
2	2023-02-16	ISSUED FOR PERMIT
3	2023-02-16	ISSUED FOR PERMIT
4	2023-02-16	ISSUED FOR PERMIT
5	2023-02-16	ISSUED FOR PERMIT
6	2023-02-16	ISSUED FOR PERMIT
7	2023-02-16	ISSUED FOR PERMIT
8	2023-02-16	ISSUED FOR PERMIT
9	2023-02-16	ISSUED FOR PERMIT
10	2023-02-16	ISSUED FOR PERMIT

GARAGE / A.D.U. PLANS FOR
 TANZER FAMILY
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CANNON BEACH
 PLANNING VARIANCE
 & DESIGN REVIEW

T Tolovana Architect LLC
 P.O. Box 648
 Tolovana Park, Oregon 97145

AS1.1

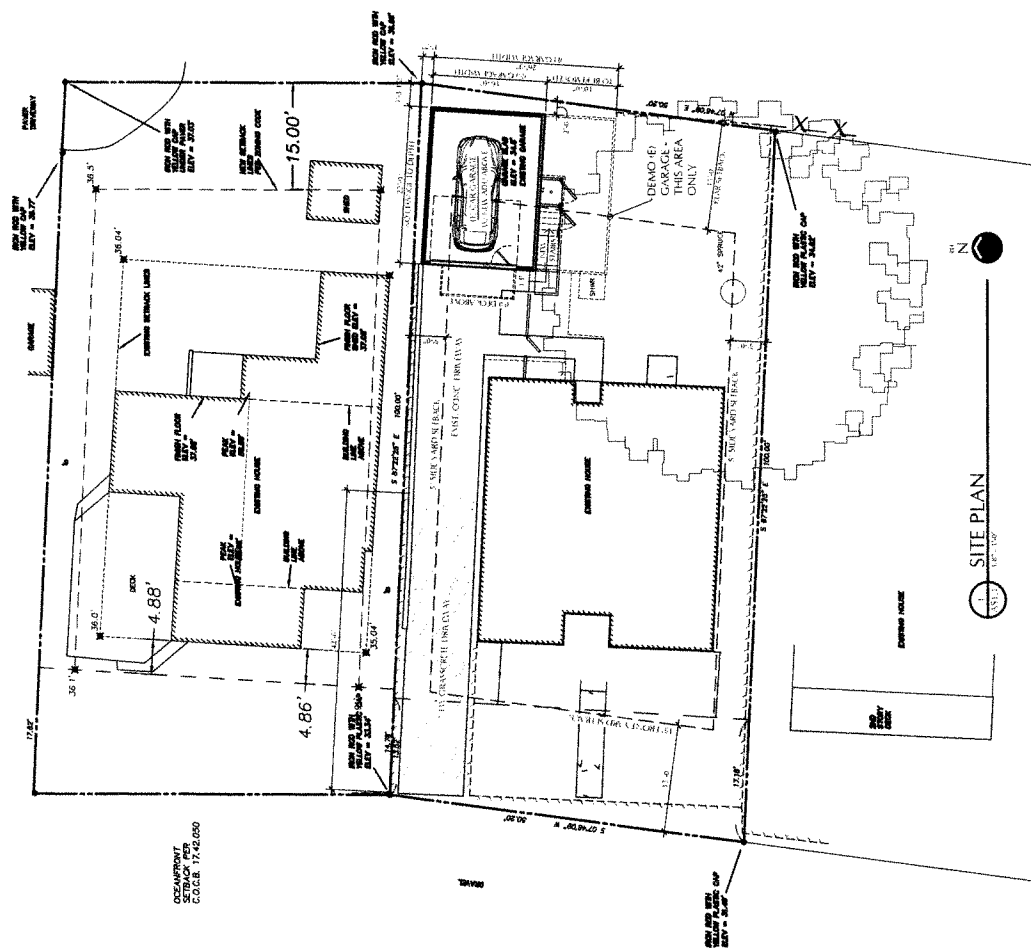
SITE PLAN

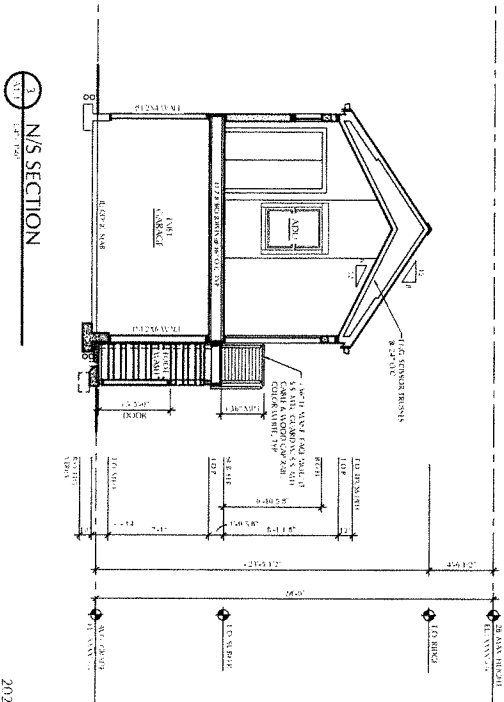
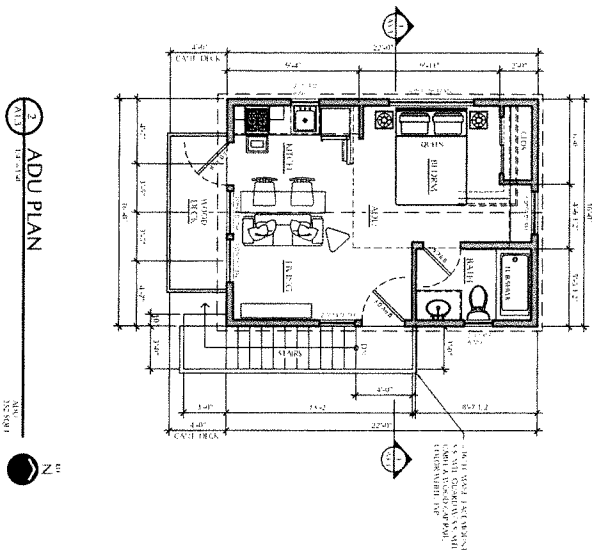
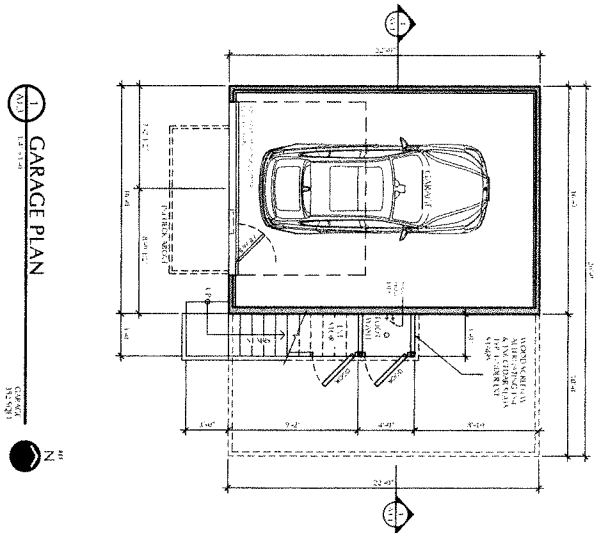
[illegible]

GARAGE / A.D.U. PLANS FOR
TANZER FAMILY
663 OCEAN AVE.
CANNON BEACH, OR 97110

CANNON BEACH
PLANNING VARIANCE
& DESIGN REVIEW

Tolovana Architect LLC
P.O. Box 648
Tolovana Park, Oregon 97145





2023-07-16
CONSULTING ARCHITECT
ARCHITECTURE

A1.1

GARAGE / A.D.U. PLANS FOR
TANZER FAMILY
663 OCEAN AVE.
CANNON BEACH, OR 97110

CANNON BEACH
PLANNING VARIANCE
& DESIGN REVIEW

T Tolovana Architect LLC
P.O. Box 648
Tolovana Park, Oregon 97145

Worksheet – Floor Area Ratio

Note: The F.A.R. and Lot Coverage forms must be completed on all additions or new single family dwellings prior to submitting packet for Building Permit.

- I. The maximum FAR in the R1, R2, RAM, R3 and RM zones is .6.
The maximum FAR in the RVL zone is .5.
The maximum FAR in the RL zone for a lot 5,000 square feet or less is .6.
The maximum FAR in the RL zone for a lot 5,000 square feet or more is .5.

II. Calculation of FAR

A. Lot Size:

5000 sq. ft. (A)

A. Gross Floor Area: (see definition below)

- | | |
|--|---------------------------|
| 1. Basement | <u> </u> sq. ft. |
| 2. 1 st Story | <u>1138</u> sq. ft. |
| 3. 2 nd Story | <u>1161</u> sq. ft. |
| 4. Loft | <u> </u> sq. ft. |
| 5. Garage or Carport | <u>572</u> sq. ft. |
| 6. Habitable Accessory Structures
(e.g. accessory dwelling) | <u> </u> sq. ft. |

TOTAL

2921 sq. ft. (B)

C. Divide Total (B) by (A)

=

0.58 FAR

Definition of Gross Floor Area

Gross Floor Area is the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings.

Gross floor area includes:

- ❖ Garages and carports
- ❖ Entirely enclosed porches
- ❖ Basement or attic areas determined to be habitable by the City's Building Official, based on the definitions in the building code.
- ❖ Uninhabitable basement areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the buildings foundation.
- ❖ All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than 15 feet shall be counted as 200% of that floor area.

Worksheet - Lot Coverage

Lot Coverage: (Allowable lot coverage = lot size x .50)

D. Lot size: 5000 sq. ft. (D)

E. Lot Coverage:

1. Building Footprint Area:
 House 1188 sq. ft.
 Detached Garage: 572 sq. ft.
 Accessory Structures: sq. ft.
 Total of Buildings: 1760 sq. ft. (E1)

2. Areas of structures over 30" above existing grade:
 Porches: sq. ft.
 Decks: 130 sq. ft.
 Stairways: sq. ft.
 Other: sq. ft.
 Total over 30": 130 sq. ft. (E2)

3. Paved or graveled area for required off-street parking: 162 sq. ft. (E3) $7' \times 18'$

4a. Areas of improvements less than 30" above existing grade and graveled or paved areas other than required parking in 3 above.

Decks: sq. ft.
 Patios: 103 sq. ft.
 Walks: 60 sq. ft.
 Graveled/Paved: 727 sq. ft.
 Other: sq. ft.
 Total under 30": 890 sq. ft. (E4a)

4b. Lot size (from D above): 5000 sq. ft.
 x .50 x .25 = 625 sq. ft. (E4b)

4c. If E4a is greater than E4b, then the remainder is counted:

E4a 890 - E4b 625 = 265 (E4c)

F. Add lines E1, E2, E3, and E4c and divide the total by line D.
 If answer is .50 (50%) or less, the standard is met:

E1: 1760 sq. ft.
 E2: 130 sq. ft.
 E3: 162 sq. ft.
 E4c: 265 sq. ft.
 Total: 2317 sq. ft.
 (D): 5000 sq. ft. = 0.46 % Lot Coverage



CITY OF CANNON BEACH

VARIANCE REQUEST APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name:

Email Address:

Mailing Address:

Telephone:

MIKE MORGAN
HMINCC@PACIFICER.COM
P.O. BOX 132
CANNON BEACH, OR 97110
503 739 0102

Property-Owner Name:

(if other than applicant)

Mailing Address:

Email Address:

Telephone:

Property Location:

BRETT AND JENNIFER TANZER
3041 106TH AV SE BELLEVUE, WA 98004
631 559 0506
663 OCEAN AVENUE
(street address)

Map No.: 5 10 30AA Tax Lot No.: 13100

VARIANCE REQUEST:

1. Description of variance that is being sought (setback, height, access requirement, etc.)

THE VARIANCE IS REQUESTED IN ORDER TO REMODEL AN EXISTING GARAGE AS AN ADU. THE GARAGE WOULD BE REDUCED IN SIZE FROM BY 10', BUT THE FLOOR AREA RATIO WOULD BE INCREASED OVERALL FROM .58 TO .62.

2. Description of the proposed building plans pertinent to the variance request.

THE PLANS AND WORKSHEETS ARE ATTACHED. 10' WOULD BE REMOVED FROM THE SOUTH SIDE OF THE GARAGE AND THE ROOF WOULD BE RAISED APPROXIMATELY 4' TO CREATE A HABITABLE ADU OF 352 S.F.

3. Justification of the variance request. Explain how the request meets each of the following criteria for granting a variance.

- a. How would a literal application of the Zoning Ordinance requirement impose a practical difficulty or an unnecessary hardship, and how would the application of the requirement be inconsistent with the objectives of the Comprehensive Plan?

THE SECOND FLOOR OF THE GARAGE IS NOT HABITABLE. IN ORDER TO BUILD AN ADU THE BUILDING MUST BE EXPANDED.

- b. Explain any exceptional or extraordinary circumstances or conditions that are applicable to this property or to the intended use of the property which do not generally apply to other properties in the same zone. THE GARAGE WAS BUILT PRIOR TO ZONING, AND THE MAIN HOUSE WAS ADDED MUCH LATER. THE FOOTPRINT OF THE GARAGE WILL BE SIGNIFICANTLY REDUCED, BUT ADDITIONAL FLOOR AREA WILL BE ADDED.
- c. Explain why the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the near vicinity. THERE WILL BE NO NEGATIVE IMPACT ON ADJACENT PROPERTIES. REDUCTION IN THE SIZE OF THE GARAGE WILL INCREASE OPEN SPACE IN THE YARD.
- d. Explain how this request, if granted, would support policies contained within the Comprehensive Plan. ADDING AN ADU WOULD PROVIDE AFFORDABLE HOUSING. REDUCING THE SIZE OF THE GARAGE WILL PROTECT A LARGE SITKA SPRUCE.
- e. Explain why this request is not a self-imposed hardship or difficulty. THE REDUCTION IN LOT COVERAGE IS A BENEFIT TO THE NEIGHBORHOOD.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Fee: \$500.00

Applicant Signature: [Signature] Date: 3 30 23

Property Owner Signature: [Signature] Date: 3 30 23

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners. As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

Fees:
803 - Planning \$500
(Last revised March 2021)

- b. Explain any exceptional or extraordinary circumstances or conditions that are applicable to this property or to the intended use of the property which do not generally apply to other properties in the same zone.
- c. Explain why the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the near vicinity.
- d. Explain how this request, if granted, would support policies contained within the Comprehensive Plan.
- e. Explain why this request is not a self-imposed hardship or difficulty.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

Fee: \$500.00

Applicant Signature: _____ Date: _____
Property Owner Signature: *[Signature]* Date: 02-10-2023

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners. As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____
Fee Paid: _____ Receipt No.: _____

Fees:

803 - Planning \$500

(Last revised March 2021)

PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050
www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us



City of Cannon Beach
163 E Gower St | PO Box 368
Cannon Beach, OR 97110
(503) 436-1581
cityhall@ci.cannonbeach.or.us

XBP Confirmation Number: 141327289

Transaction detail for payment to City of Cannon Beach.		Date: 03/31/2023 - 10:29:17 AM MT	
Transaction Number: 195544875			
Visa — XXXX-XXXX-XXXX-7043			
Status: Successful			
Account #	Item	Quantity	Item Amount
Variance 663 Ocean	Planning Fees	1	\$500.00

TOTAL: \$500.00

Billing Information
Brett A Tanzer
, 98004

Transaction taken by: Admin tpfundCaselle pfund

Proposed Findings of Fact Tanzer Setback Reduction Request 3/30/23

1. Description: Brett and Jennifer Tanzer propose to adapt a detached two car garage at the rear of their existing house at 663 Ocean Avenue into a single car garage with an attached dwelling unit on the second floor. Ten feet of the structure would be removed from the south side of the building and the roof would be raised approximately 4 feet to accommodate the ADU on top of a renovated single vehicle garage. The Setback Reduction is necessary since the improvements to the structure exceed 50% of the value, according to planning staff. The existing garage, which was built prior to zoning, was built within one foot of the north and east property lines. There are residences on the north, east, and south of the property.

2. Description of the proposed building plans pertinent to the setback reduction request:

The house and the existing garage sit on a 5,000 square feet lot. The garage is 572 square feet, but will be reduced in terms of its footprint to 352 square feet with the removal of the south 10'. By renovating the second floor into an ADU, an additional 352 square feet will be added. This will increase the total square footage to 3,133 square feet with a floor area ratio (FAR) of .62. The current FAR is .58 because the upstairs of the garage is not habitable.

3. Justification of the setback reduction request:

- (a) The design is intended to keep the new garage structure on the footprint of the old one, but with the reduction of 10' on the south side. There will be no additional intrusion into the setbacks. Reducing the size of the garage by 10' will create additional open space in the back yard for the residents of the primary residence and the ADU. It will also reduce the impact on the large Sitka Spruce in the back yard.
- (b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if he

- proposed structure were located as required by the zoning district. The property to the east would not be impacted by the 4' additional height to the garage. The impact on views will be the same regardless of whether the house meets the setback requirement or not.
- (c) Solar access will not be impacted by the small additional height of the building.
 - (d) The request meets several of the criteria of the code: Reduction of the garage building will improve the health of the large tree in the back yard, one of the few remaining on the oceanfront. The provision of an ADU will provide affordable housing. The total lot coverage of the two buildings will be reduced.
 - (e) Adjacent rights-of-way have sufficient width for utility placement or other public purpose.
 - (f) The setback reduction will not create traffic hazards; or impinge on a public walkway or trail.

Conclusion

It is the applicant's opinion that the setback reduction meets the criteria of the zoning code, and should be approved.

Robert St. Clair

From: Mike <mikeattallwoods@gmail.com>
Sent: Tuesday, April 11, 2023 12:04 PM
To: Robert St. Clair; Jay Orloff
Cc: Jay Orloff
Subject: Additional Tanzer Findings of Fact - FAR variance.

Robert: Please include the following in the application for the Tanzer variance. Thanks much, Mike

1. Brett and Jennifer Tanzer are proposing to remodel an existing two car garage built prior to the zoning code (the main house was built in 1999) into a single car garage with an Accessory Dwelling Unit (ADU) on the second level above the garage. In order to make the ADU a habitable space, the project would require exceeding the .6 Floor Area Ratio. The FAR is currently .58, including the main dwelling. The ADU would add 352 s.f. to the garage. 10' of the garage on the south side would be removed, reducing the two car garage from 572 s.f. to 352 s.f. This would push the FAR for the entire property to .62, or .02 over the limit. The main structure, which is 2,349 s.f., will remain unchanged. As a result of the reduction in the size of the garage, the Lot Coverage of the buildings will be reduced from 2,317 s.f. to 2,106 s.f., or .46% to .42%. This will create a larger back yard for landscaping and protect the large (42" diameter) Sitka Spruce tree in the back yard. The diameter of the tree's crown is shown on the project drawings, and is estimated at 50'.
2. The Comprehensive Plan Housing Element does not specifically mention ADUs, but it encourages a variety of housing to meet the needs of all economic levels of the community.
3. There is practical difficulty in adapting an ADU on this property. The main house itself is reasonably sized, but is not designed to accommodate an ADU. The construction of an ADU in the front yard is not possible due to setbacks and design considerations. A freestanding ADU in the back yard would mean removal of the Spruce tree. The adaptive reuse of the old garage as an ADU is the most logical place to place it.
4. The increase of the FAR will not be detrimental to the public health, safety or welfare, or materially injurious to other properties. No views will be blocked by the addition of the ADU that were not already blocked by the existing garage.
5. The adaptive use of the old garage, which was built prior to zoning, is a reasonable use of resources. The location and size of the garage was the work of previous owners, and the Tanzers are reducing its footprint by 10' to create more open space and save a significant tree. It is not a self-imposed hardship or difficulty.
6. The City's Goal 10 Housing Element supports the request:
 1. *In order to maintain the city's village character and its diverse population, the city will encourage the development of housing which meets the needs of a variety of age and income groups, as well as groups with special needs. (Ord 97-19; Ord 92-10; Res 79-02)*
 2. *To the extent possible, the city shall endeavor to accommodate affordable housing in a manner that disperses it throughout the community rather than concentrating it at specific locations.*

Exhibit A-5: April 11, 2023 Supplemental Photographs















CITY OF CANNON BEACH

April 7, 2023

SR#23-03 & V#23-02, Mike Morgan, on behalf of Brett and Jennifer Tanzer, requesting a setback reduction for the side and rear yard setbacks and a variance to exceed the floor area ratio limitations. The purpose of these applications is to allow for structural modifications to a pre-existing non-conforming detached garage and the addition of an Accessory Dwelling Unit. The property is in the Residential Medium Density (R2) zoning district. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, and section 17.84, Variances, provisions established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, April 27, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

SR#23-03 & V#23-02, Mike Morgan, on behalf of Brett and Jennifer Tanzer, requesting a setback reduction for the side and rear yard setbacks and a variance to exceed the floor area ratio limitations. The purpose of these applications is to allow for structural modifications to a pre-existing non-conforming detached garage and the addition of an Accessory Dwelling Unit. The property is in the Residential Medium Density (R2) zoning district. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, and section 17.84, Variances, provisions established.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Robert St. Clair, 503-436-8041, or at st.clair@ci.cannon-beach.or.us.

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.



Robert St. Clair
City Planner

Posted/Mailed: 4/7/23

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • www.ci.cannon-beach.or.us

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



Disclaimer: The information contained in this GIS application is NOT AUTHORITATIVE and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Cannon Beach assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Cannon Beach provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.

OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
Beach House Trust	10903 NE 48th St	Kirkland	WA	98033
Hegrenes Patrick C	PO Box 1436	Cannon Beach	OR	97110
Unger Lawrence B	1011 NE 3rd Ave	Hillsboro	OR	97124
Tanzer Brett	3041 106th Ave SE	Bellevue	WA	98004
Bertellotti Family Trust	23800 SW Rainbow Ln	Hillsboro	OR	97123-9306
Byars Michael K	5510 Cedar Pkwy	Chevy Chase	MD	20815
Van Blarcom Jill Marie	9072 SE Emily Park Way	Happy Valley	OR	97086
Burmeister-Brown Family Trust	5837 NW Skyline Blvd	Portland	OR	97229-1332
Kane George P/Shirley K Truste	6829 SE Ash St	Portland	OR	97215-1345
Laliberte Brian	423 2nd Street S #C	Kirkland	WA	98033
Charhon Sara F	15441 SE 164th Pl	Renton	WA	98058
Burmeister-Brown Family Trust	5837 NW Skyline Blvd	Portland	OR	97229-1332
Force Michael	8691 Equus Lane	Fair Oaks	CA	95628
Milesi David	6425 34th Ave NW	Seattle	WA	98107
Gailey Michael A	13323 SE Regency View Dr	Happy Valley	OR	97086



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF SR#23-04, BRENT BURTON APPLICATION REQUESTING A SETBACK REDUCTION TO REDUCE THE REQUIRED FRONT AND SIDE YARD SETBACKS IN ORDER TO CONSTRUCT A SINGLE-FAMILY DWELLING ON AN UNDEVELOPED LOT LOCATED NEAR THE INTERSECTION OF S. HEMLOCK AND CENTER STREETS. THE SUBJECT PROPERTY (TAX LOT# 04302, MAP 51030DD) IS LOCATED IN A RESIDENTIAL LOWER DENSITY ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER MUNICIPAL CODE SECTION 17.64.010, SETBACK REDUCTION, PROVISIONS ESTABLISHED.

Agenda Date: April 27, 2023

Prepared By: Robert St. Clair, Planner
Community Development Department

GENERAL INFORMATION

NOTICE

Public notice for this April 27, 2023 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on April 7, 2023;
- B. Notice was mailed on April 7, 2023 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on March 21, 2023 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Setback Reduction Application SR#23-04, submitted and stamped March 21, 2023;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1** Lot Line Adjustment 22-03, approved October 17, 2023;

"D" Exhibits – Public Comment

Non received as of this writing;

SUMMARY & BACKGROUND

Brent Burton is requesting a setback reduction of the required front yard from 15 feet to 5 feet and the eastern side yard from 15 feet to 5 feet to allow for the construction of a new single-family dwelling. The subject property has a parcel average slope in excess of 30 degrees and the applicant's intent is to construct the house on a portion of the lot that is less steep and not as impactful to the hillside.

APPLICABLE CRITERIA

17.10.040, RL Residential Lower Density Zoning District, Standards

In an RL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

- A. *Lot Size. Lot area shall be at least ten thousand square feet. Lots of less than ten thousand square feet may be buildable pursuant to Section 17.82.020; provided, that such lots were not part of an aggregate of contiguous lots with an area or dimension of ten thousand square feet or greater held in a single ownership at the time of enactment of Ordinance 79-4A. Where there are lots held in a single contiguous ownership and one of the lots or combination of lots meets the minimum lot size but the other lot or combination of lots does not meet the minimum lot size, there shall be only one buildable lot. Example: three contiguous lots in a single ownership, each lot with an area of five thousand square feet, constitute one buildable lot. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).*

The planning commission may authorize the placement of a governmental or municipal structure necessary for public service on a lot of less than ten thousand square feet if it is found that a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses.

- B. *Lot Dimensions.*

1. *Lot Width. Lot width shall be at least seventy-five feet.*
2. *Lot Depth. Lot depth shall be at least ninety feet.*
3. *Front Yard. A front yard shall be at least fifteen feet.*
4. *Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.*
5. *Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.*
6. *Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.*

- C. *Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.*

- D. *Floor Area Ratio. The floor area ratio for a permitted or conditional use on a lot of six thousand square feet or more shall not exceed 0.5. The maximum gross floor area for a permitted or conditional use on a lot of more than five thousand square feet, but less than six thousand square feet, shall not exceed three thousand square feet. The floor area ratio for a permitted or conditional use on a lot with an area of five thousand square feet or less shall not exceed 0.6.*

- E. *Building Height. Maximum height of a vertical structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.*
- F. *Signs. As allowed by Chapter 17.56.*
- G. *Parking. As required by Section 17.78.020.*
- H. *Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.*
- I. *Geologic or Soils Engineering Study. As required by Chapter 17.50.*
- J. *Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040(A) through (K) (Standards), shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352.*
- K. *Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.90.190 has been submitted and approved.*

Staff Comment: No detailed plans for a proposed dwelling have been submitted to the City at this time, however the application materials include a site plan that shows the approximate area where the new dwelling would be constructed. Prior to issuance of a building permit City staff will review a development application for compliance with established standards for the zoning district including criteria such as the inclusion of a geological hazard report specific to the proposed development, building height, lot coverage, floor area ratio, and off-street parking requirements. Meets criteria.

17.64, Setback Reduction

17.64.010.A.1: *Total building coverage shall not exceed forty percent.*

Staff Comment: The subject property measures 9,674 square feet as per the diagram provided in Lot Line Adjustment 22-03 which is included as Exhibit C-1. No plans have been provided, however based on the property's square footage total building coverage cannot exceed 3,869 square feet and total lot coverage which includes structures, patios, decks, driveways, etc. cannot exceed 50%. Meets criteria.

17.64.010.A.2: *Significant view of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district.*

Staff Comment: There are no identified impacts to views as a result of this proposal. There is no residential or commercial development on the east side of S. Hemlock St. that would be impacted by any development on the subject property. Meets criteria.

17.64.010.A.3: *The proposed building location will not interfere with solar access of buildings on adjoining property.*

Staff Comment: There are no identified impacts to solar access for adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.4: *It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the Planning Commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:*

- a. Tree protection,*
- b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*
- d. The provision of solar access,*
- e. Permitting construction on a lot with unusual configuration,*
- f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,*
- g. Protection of a wetland or wetland buffer area, or*
- h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.*

Staff Comment: There are no identified significant impacts to privacy, drainage, light, air, noise reduction, and fire safety for adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.5: *Adjacent rights-of-way have sufficient width for utility placement or other public purposes.*

Staff Comment: There are no identified impacts to adjacent right of way or the placement of public utilities as a result of this application. Meets criteria.

17.64.010.A.6: *The reduction would not create traffic hazards; or impinge upon a public walkway or trail.*

Staff Comment: There are no identified traffic impacts that would result from this proposal. Condition of approval #1 would prohibit the use of the Hemlock St. frontage for vehicle parking. Additionally, this portion of Hemlock St. is posted as a no parking area. Meets criteria.

17.64.010.A.7: *Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property.*

Staff Comment: There are no identified impacts to the amount of privacy enjoyed by adjacent property owners as a result of this proposal. Meets criteria.

17.64.010.A.8: *The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.*

Staff Comment: There are no identified impacts to the ability to provide fire protection at the subject property. Any proposed development will be reviewed by the Cannon Beach Rural Fire District prior to the issuance of a building permit. Meets criteria.

PROCEDURAL REQUIREMENTS

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The application was submitted on March 21, 2023 and determined to be complete on March 24, 2023. Based on this, the City must complete its review of this proposal by July 22, 2023.

The Planning Commission's April 27th hearing will be the first evidentiary hearing on this request. ORS 197.763(6) allows any party to the hearing to request a continuance. The Planning Commission should grant any request for a continuance of this hearing. The Planning Commission's next regularly scheduled hearing date is May 25, 2023.

RECOMMENDATION

Staff recommends approval, with the conditions below.

DECISION AND CONDITIONS

Motion: Having considered the evidence in the record, based on a motion by Commissioner (Name) seconded by Commissioner (Name), the Cannon Beach Planning Commission moves to (approve/approve with conditions/or deny) the Brent Burton application for a setback reduction, **SR# 23-04**, as discussed at this public hearing (subject to the following conditions):

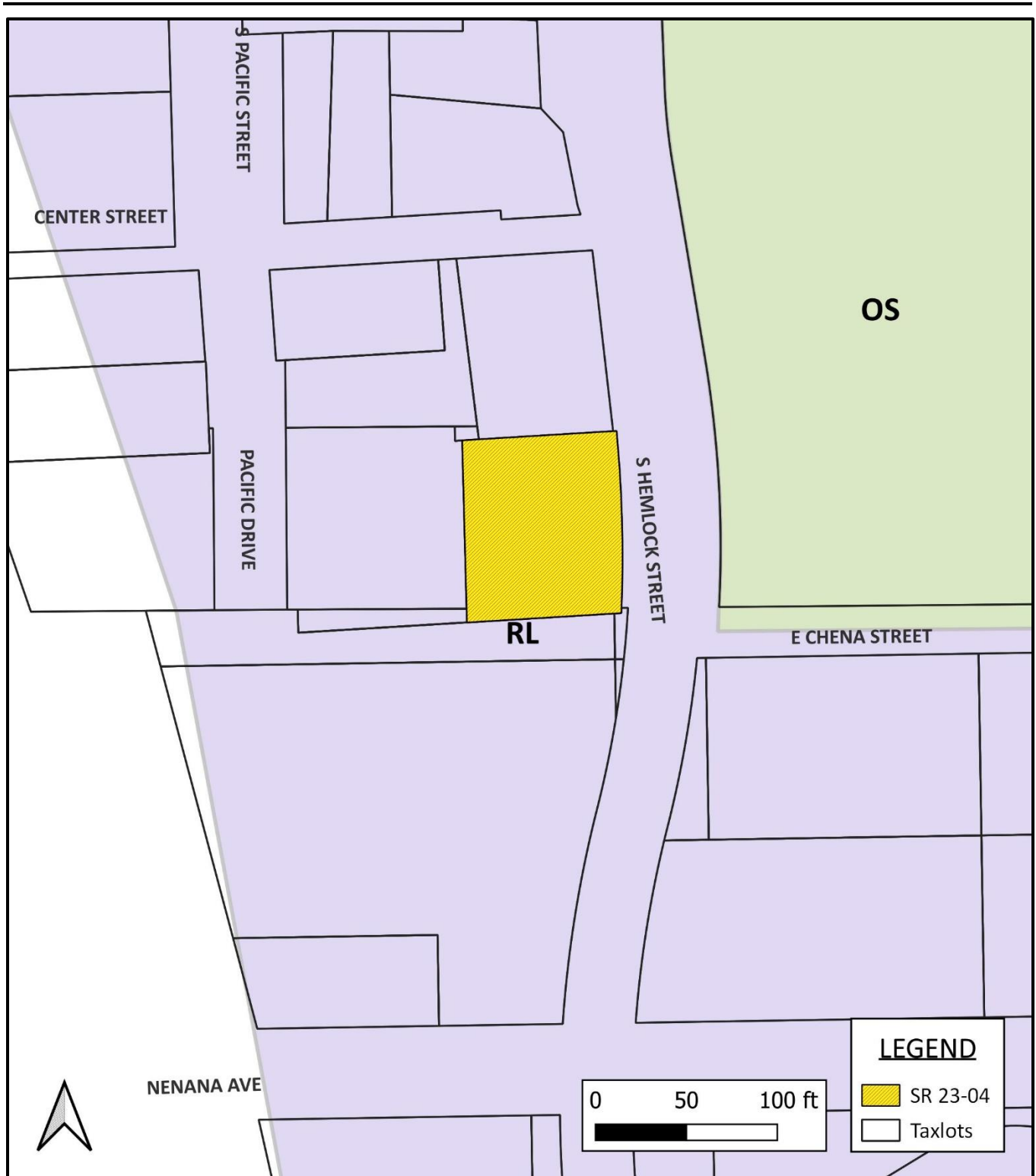
1. The portion of the property fronting Hemlock St. shall not be used for vehicle parking.
2. A building permit shall be obtained before starting construction.

Notice of Approval

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15)

SR#23-04 Site Map with Zoning Information





CITY OF CANNON BEACH

SETBACK REDUCTION APPLICATION

Please fill out this form completely. Please type or print.

Applicant Name: BRENT BURTON
Email Address: burtonb@msn.com
Mailing Address: PO BOX 1938 NORTH PLAINS, OR 97133
Telephone: 503.250.4393

Property-Owner Name: SAME AS APPLICANT
(if other than applicant)

Mailing Address: _____
Telephone: _____
Property Location: _____
(street address)

Map No.: 51030DD Tax Lot No.: 4302

SETBACK REDUCTION REQUEST:

1. Description of the setback reduction that is being sought.

The request is for a 10' setback reduction on the front yard setback (East). The proposed plans are to build a new single family residence.

2. Description of the proposed building plans pertinent to the setback reduction request.

The plans are to construct a new single family residence on tax lot 4302. The request for the setback is to allow the house to built on a portion of the lot that is less steep and not as impactful to the hillside.

3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

(a) Total building coverage shall not exceed forty percent;

The early concepts for the design of the residence with keeping it away from the edge of the sloped topography put the lot coverage of the residence at less than forty percent per City code.

- (b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

The request of this setback has no negative impact on surrounding properties with respect to views.

The approval of the request would improve the neighbors views of the ocean to both the North and South.

- (c) The proposed building location will not interfere with solar access of buildings on adjoining property;

The request of this setback reduction does not impact solar access to adjacent buildings.

The approval would improve the solar access to the neighbor to the North.

- (d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

- e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

The site has adequate access for utilities and other public purposes.

- f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

The setback reduction will have no impact to traffic in the surrounding area. There is no impact to public right ways and trails.

g) Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

The setback request does not reduce the privacy of the surrounding neighbors. The approval would give more privacy to the neighbor to the North.

h) The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.

There is no impact of the request related to Fire Protection -

8. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

See attached -

City of Cannon Beach
Finance Department

MAR 21 2023

Attach additional sheets as necessary.

Setback Application Fee: \$500.00

PAID

Applicant Signature: _____ Date: _____

Property Owner Signature: _____ Date: _____

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

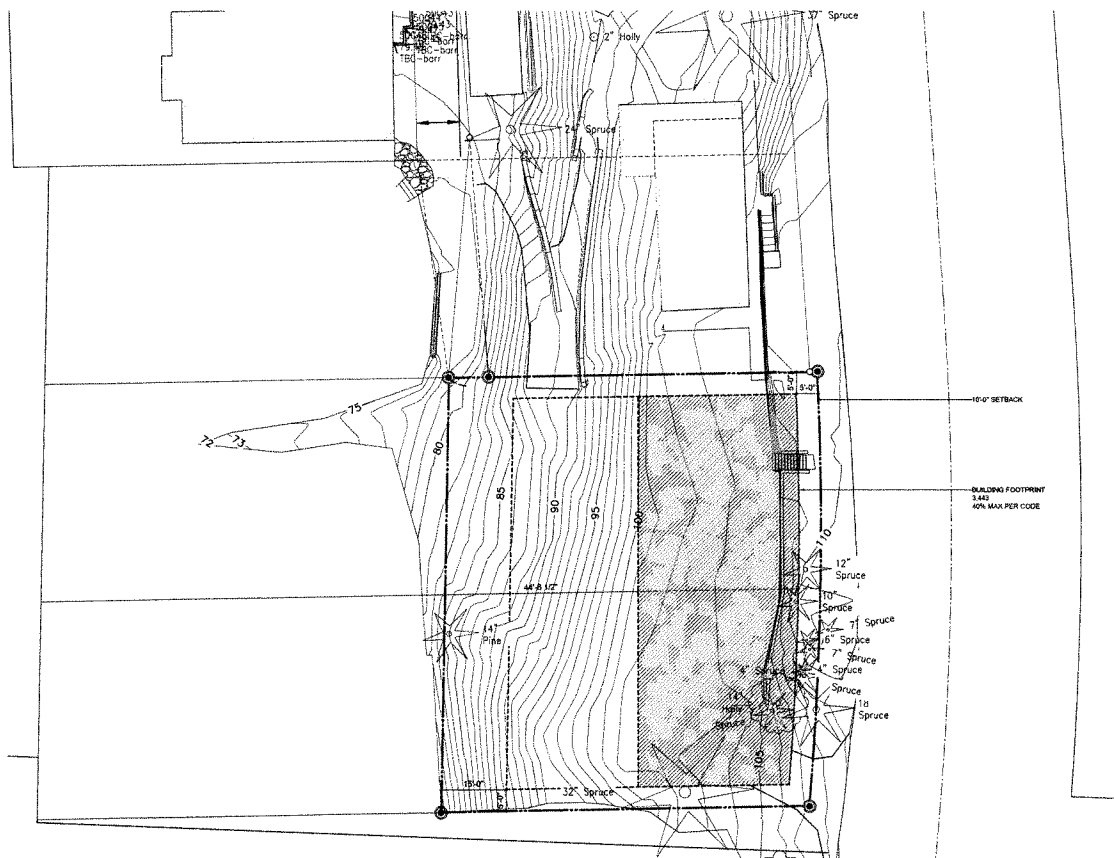
As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

For Staff Use Only:

Received on: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



1 SITE PLAN
A1.02 1" = 10'-0"



City of Cannon Beach
163 E Gower St | PO Box 368
Cannon Beach, OR 97110
(503) 436-1581
cityhall@ci.cannonbeach.or.us

XBP Confirmation Number: 140631200

Transaction detail for payment to City of Cannon Beach.			Date: 03/21/2023 - 11:33:22 AM MT
Transaction Number: 195020491			
Visa — XXXX-XXXX-XXXX-2020			
Status: Successful			
Account #	Item	Quantity	Item Amount
Burton tax lot 4302	Planning Fees	1	\$500.00

TOTAL: \$500.00

Billing Information
Vito Cerelli
, 97102

Transaction taken by: Admin dwallaceCaselle dwallace

BEFORE THE CITY OF CANNON BEACH

**IN THE MATTER OF A LOT LINE ADJUSTMENT
FOR THE FOLLOWING PROPERTY**

Tax lot# 51030DD04302, 51030DD04300, 51030DD04301
Lots 1, 2, 3 and 4 of Block 3, Tidal View Subdivision
1956 S. Hemlock St.
1980 S. Hemlock St.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER NO. LL#22-03

ZONE: RL Lower Density Residential

APPLICANT: Jeffrey Taylor
2005 Huntsville St.
Broken Arrow, OK 74011

ON BEHALF OF: Brent T. Burton
P.O. Box 1938
North Plains, OR 97133


Jeffery Taylor
2005 W. Huntsville St.
Broken Arrow, OK 74011

The above-named applicant applied to the City for review and approval of a proposed lot line adjustment on property described above. The Planning Director considered the above-entitled matter and approved the lot line adjustment on October 17, 2022. The City of Cannon Beach orders that the request for a lot line adjustment is granted and adopts the findings of fact, conclusions, and conditions contained in Exhibit "A".

This lot line adjustment replaces LL 22-02 which was approved in April 2022 but never finalized.

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 October 17, 2022



Robert St. Clair
Planner

Exhibit A
FINDINGS OF FACT
LOT-LINE ADJUSTMENT LL22-03

PROPERTY DESCRIPTION: Tax lot# 51030DD04302, 51030DD04300, 51030DD04301

PROPERTY LOCATION: Lots 1, 2, 3 and 4 of Block 3, Tidal View Subdivision
1956 S. Hemlock St.
1980 S. Hemlock St.

ACTION: Approved, with conditions

BACKGROUND:

The applicant requests approval of a Lot Line Adjustment for Tax lot# 51030DD04300 and 4302, consisting of lots 1, 2, 3 & 4 of Block 3, of Tidal View subdivision, located on the corner of S. Hemlock and Center St., currently addressed as 1956 S. Hemlock St. and 1980 S. Hemlock St. The proposed configuration is shown on the map labeled "Brent Burton, Proposed Lot Line Adjustment."

This proposal is handled as a lot line adjustment, as no additional lots are created by the proposed action.

APPLICABLE CRITERIA

Cannon Beach Municipal Code section 16.04.370, Lot line adjustment, is applicable to this request. The subject property is in the Residential Lower Density (RL) zone, so the standards of that zone are also applicable: 17.10.040.

FINDINGS:

16.04.370.C.1: *An additional lot is not created by the lot line adjustment and the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the approved zoning for that district.*

The proposed LLA involves two tax lots each containing two lots of record platted in the 1927 Tidal View subdivision. The existing lots 1 and 2, under the ownership of The Entrust Group FBO consists of approximately 8,267 square feet, existing, to be reduced to approximately 7,202 SF by the adjustment. All lots are non-conforming under the current CBMC 17.10.040(A) requirement for 10,000 SF, and yet 'buildable pursuant to Section 17.82.020.' The proposed reconfiguration does not reduce below the required minimum because the combined lots are already well below the required number and does not diminish the ability for the property to maintain its single-family residential structure permitted through CBMC 17.82.020.

Lots 3 and 4 of Block 3, under the ownership of Donna Wicher are also non-conforming under the current CBMC 17.10.040(A) requirement for 10,000 SF, and yet 'buildable pursuant to Section 17.82.020.' The

proposed reconfiguration would increase the size of this ownership from 8,609 SF to approximately 9,674 SF. This would change the status of the ownership from non-conforming to conforming, allowing for a single-family dwelling as well as any permitted or conditional uses allowed in the Residential Lower Density zoning district.

17.10.040(A): *In an RL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:*

- A. *Lot Size. Lot area shall be at least ten thousand square feet. Lots of less than ten thousand square feet may be buildable pursuant to Section 17.82.020; provided, that such lots were not part of an aggregate of contiguous lots with an area or dimension of ten thousand square feet or greater held in a single ownership at the time of enactment of Ordinance 79-4A. Where there are lots held in a single contiguous ownership and one of the lots or combination of lots meets the minimum lot size but the other lot or combination of lots does not meet the minimum lot size, there shall be only one buildable lot. Example: three contiguous lots in a single ownership, each lot with an area of five thousand square feet, constitute one buildable lot. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).*

The proposed lot line adjustment can be approved despite the lot sizes below the 10,000 SF minimum for creation of new lots because:

- The subject property is in the Tidal View subdivision, which was platted in 1927, well before the passage of the effective date of Ordinance 79-4A in 1979.
- The four existing non-conforming lots, under two ownerships, are each permitted one single-family residence under CBMC 17.82.020(A).
- The existing structures on the property are existing non-conforming structures and must comply with CBMC 17.82.040 standards.

Based on this, the proposed lot line adjustment does not conflict with applicable lot size standards.

16.04.370.C.2: *By reducing the lot size, the lot or structures on the lot will not be in violation of the zoning ordinance requirements for that district.*

The proposal complies with the exception to minimum lot sizes in 17.82.020(A) and the shifting of the lot line does not affect the non-conforming status of the existing structures. Any new construction on the properties would be held to the current zoning requirements of the RL district. The existing 'garage' accessory structure on Lot 1 will be demolished as a condition of approval.

17.10.040.B: 3, 4, 5 & 6 (establishing minimum setbacks):

<i>Front (street):</i>	<i>15 feet</i>
<i>Side:</i>	<i>5 feet</i>
<i>Street-side corner lot:</i>	<i>15 feet</i>
<i>Rear:</i>	<i>15 feet</i>
<i>Rear, corner lot:</i>	<i>5 feet</i>

Any proposed future structures will be held to the current zoning requirements of the RL zoning district.

DECISION:

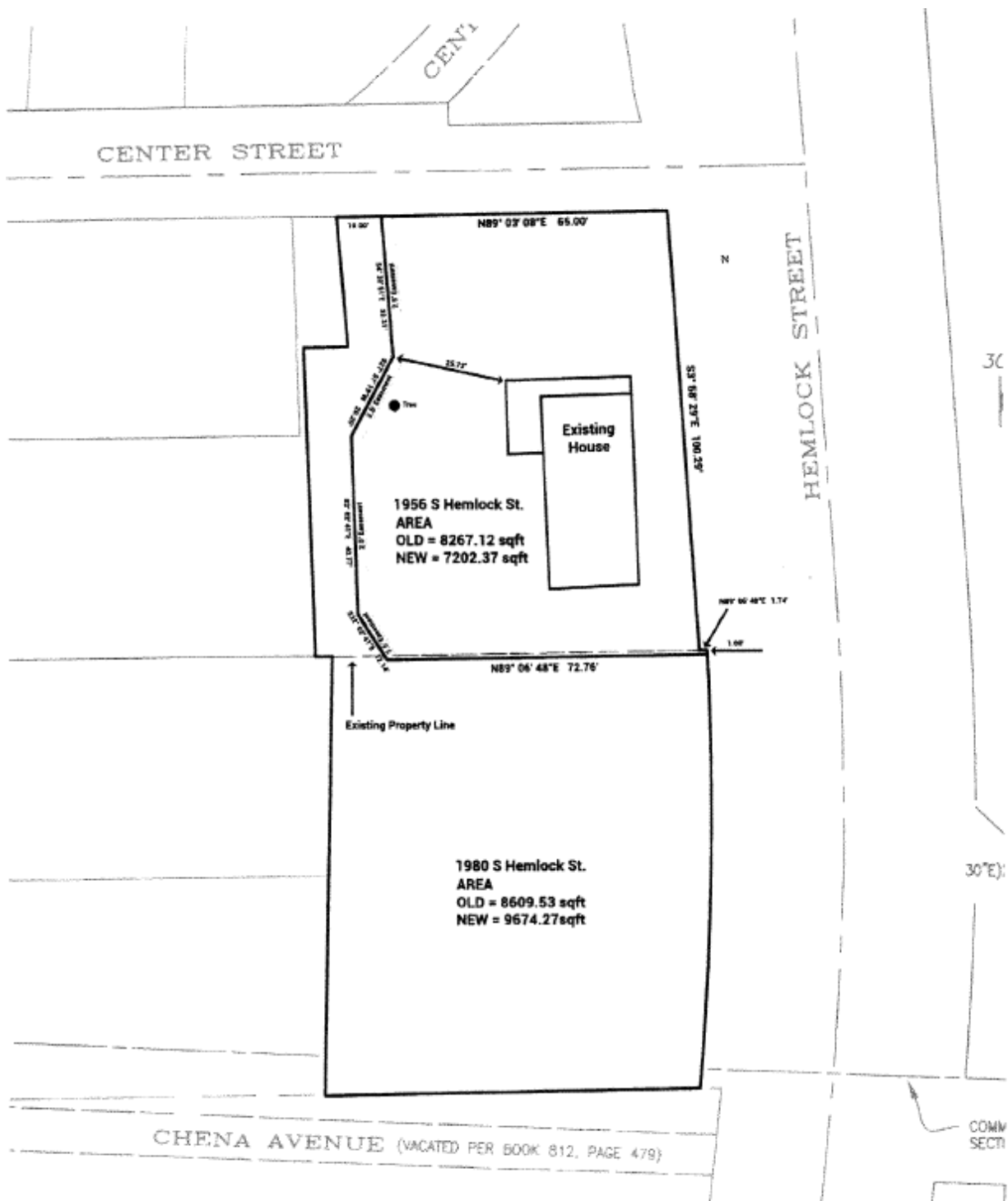
The proposed Lot Line Adjustment is approved as shown on the drawing labeled “Jeffery Taylor, Proposed Lot Line Adjustment,” upon the following conditions:

1. Removal of existing garage structure prior to the approval of any other building permits for the subject properties.

16.04.370 Lot line adjustment.

D. The applicant may appeal the decision of the city to the planning commission by filing an appeal within fourteen consecutive calendar days of the decision. (Ord. 17-3 § 1; Ord. 95-20 § 1)

Jeffery Taylor, Proposed Lot Line Adjustment





CITY OF CANNON BEACH

April 7, 2023

SR#23-04, Brent Burton application requesting a setback reduction to reduce the required front and side yard setbacks in order to construct a single-family dwelling on an undeveloped lot located near the intersection of S. Hemlock and Center Streets. The subject property (Tax Lot 04302, Map 51030DD) is located in a Residential Low Density (RL) zone. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, provisions established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

Please note that you may submit a statement either in writing or orally at the hearing, supporting or opposing the proposed action. Your statement should address the pertinent criteria, as stated in the hearing notice. Statements in writing must be received by the date of the hearing.

Enclosed are copies of the public hearing notice, a description of how public hearings are conducted and a map of the subject area. Should you need further information regarding the relevant Zoning Ordinance, Subdivision Ordinance or Comprehensive Plan criteria, please contact Cannon Beach City Hall at the address below, or call Emily Bare at (503) 436-8054 or email bare@ci.cannon-beach.or.us.

Sincerely,

Emily Bare
Administrative Assistant
Community Development

Enclosures: Notice of Hearing
 Conduct of Public Hearings
 Map of Subject Area

**NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, April 27, 2023 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

SR#23-04, Brent Burton application requesting a setback reduction to reduce the required front and side yard setbacks in order to construct a single-family dwelling on an undeveloped lot located near the intersection of S. Hemlock and Center Streets. The subject property (Tax Lot 04302, Map 51030DD) is located in a Residential Low Density (RL) zone. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, provisions established.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Failure to raise an issue at the public hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Robert St. Clair, 503-436-8041, or at st.clair@ci.cannon-beach.or.us.

The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.

Posted/Mailed: 4/7/23



Robert St. Clair
City Planner

NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • www.ci.cannon-beach.or.us

**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- A. At the start of the public hearing, the Mayor or Planning Commission Chair will ask the following questions to ensure that the public hearing is held in an impartial manner:
1. Whether there is a challenge to the jurisdiction of the City Council or Planning Commission to hear the matter;
 2. Whether there are any conflicts of interest or personal biases to be declared by a Councilor or Planning Commissioner;
 3. Whether any member of the Council or Planning Commission has had any ex parte contacts.
- B. Next, the Mayor or Planning Commission Chair will make a statement which:
1. Indicates the criteria which apply to the action;
 2. Cautions those who wish to testify that their comments must be related to the applicable criteria or other criteria in the Comprehensive Plan or Municipal Code that the person testifying believes apply;
 3. States that failure to raise an issue in a hearing, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 4. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The City Council or Planning Commission shall grant such request by continuing the public hearing or leaving the record open for additional written evidence or testimony.
- C. The public participation portion of the hearing will then proceed as follows:
1. Staff will summarize the staff report to the extent necessary to enable those present to understand the issues before the Council or Planning Commission.
 2. The Councilors or Planning Commissioners may then ask questions of staff.
 3. The Mayor or Planning Commission Chair will ask the applicant or a representative for any presentation.
 4. The Mayor or Planning Commission Chair will ask for testimony from any other proponents of the proposal.
 5. The Mayor or Planning Commission Chair will ask for testimony from any opponents of the proposal.
 6. Staff will be given an opportunity to make concluding comments or respond to additional questions from Councilors or Planning Commissioners.
 7. The Mayor or Planning Commission Chair will give the applicant and other proponents an opportunity to rebut any testimony of the opponents.
 8. Unless continued, the hearing will be closed to all testimony. The Council or Planning Commission will discuss the issue among themselves. They will then either make a decision at that time or continue the public hearing until a specified time.

NOTE: Any person offering testimony must first state their name, residence, and **mailing address** for the record. If representing someone else, the speaker must state whom he represents.



OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
Oregon Parks and Recreation Dept	725 Summer St #C	Salem	OR	97301
Silvester Family Trust	PO Box 1385	Cannon Beach	OR	97110
Boring Erwin L Trust	16550 SE 232nd Dr	Boring	OR	97089
Neupert Beach House Trust	4075 SW Charming Way	Portland	OR	97225
Wicher Donna C	PO Box 1938	North Plains	OR	97133-1938
Haystack Rock LLC	4332 SW Semler Way	Portland	OR	97221
Taylor Jeffery	2005 W Huntsville St	Broken Arrow	OK	74011

