

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, September 22, 2022

Present: Chair Clay Newton, Commissioners Barb Knop, and Les Sinclair in person
Commissioners Mike Bates, Charles Bennett, Aaron Matusick, and Anna Moritz via Zoom

Excused:

Staff: Director of Community Development Jeff Adams, Land Use Attorney Bill Kabeiseman, City Planner Robert St. Clair, City Manager Bruce St. Dennis, and Administrative Assistant Katie Hillenhagen

CALL TO ORDER

Chair Newton called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Knop moved to approve the agenda as presented; Sinclair seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of August 25, 2022

Motion: Moritz moved to approve the minutes; Bennett seconded the motion.

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

(3) Continuation of CD# 22-01 & CU# 22-03, David Vonada request, on behalf of Davidspruce LLC, for a seven-lot Conditional Use Permit Cluster Development Subdivision in the Wetland Overlay Zone.

David Vonada, on behalf of David Pietka, request for a Conditional Use Permit to allow a cluster development consisting of five single-family dwellings and a fourplex apartment. The property is located on the southwest corner of 1st and Spruce St. (Tax Lot 04402, Map 51030AA) in a Limited Commercial (C1) Zone. The request will be reviewed under Cannon Beach Municipal Code, Titles 16 Subdivisions and 17 Zoning, including Sections 16.04.130 Subdivision-Applicable Standards, 16.04.400 Variance-Cluster Development, 17.22.030 Conditional Uses Permitted, and 17.43.040-050 Conditional Uses and Activities Permitted in Wetland and Wetland Buffer Areas, Standards.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Newton asked if any Commissioner had any conflict of interest. There were none. Chair Newton asked if any Commissioner had personal bias to declare. There were none. Chair Newton asked if any commissioner had any ex parte contacts to declare. There were none. The commissioners declared their site visits.

Chair Newton asked for the Staff Report. Adams reminded everyone that the record was closed under the Oregon 7-7-7 rules. He noted that the applicant made new evidence available after the record was closed. The applicant has requested to reopen the record and extend the 120 day rule.

The Commissioners discussed the request and agreed that the record should be reopened and continued at the next Planning Commission meeting.

Kabeiseman suggested publishing the documents that were submitted and reviewing it at the next meeting or continuing it as a 7-7-7 process.

Adams suggested re-noticing it and holding another hearing at the next meeting.

They discussed the timeline and the new deadline for the City to make a decision. The new deadline would be January 1, 2023.

Kabeiseman suggested doing a modified 7-7-7 as a 14-7-7 to ensure a final decision by January 1.

Kabeiseman gave an overview of the dates.

Motion: Knop moved re-notice and reopen the record re-notice folks and allow written material on any topic until Thursday 5 p.m on October 6th, then responsive materials to that anything that came in in the interim until Thursday October 13th at 5 pm, and then final written argument from the applicant only until uh due no later than 5 PM on Thursday October 20th with deliberations on Thursday October 27th ; Moritz seconded the motion.

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

NON HEARING ITEMS

(5) Work Session review of a Zoning Ordinance Amendment request by Will Rasmussen on behalf of Haystack Rock LLC, for a text amendment regarding notice requirements for applications and decisions.

Rasmussen noted that they are scheduled for an actual hearing next month. Rasmussen got examples of other jurisdictions that have similar ordinances. He said he would follow-up with a letter with this information and summarized what he found. Rasmussen argued that the zoning change would lead to better decisions and save resources. He also argued that it would not take up too much staff time and resources.

Moritz asked about simplifying the process by sending just an email that notifies the interested party that a decision has been made on the property of interest and they need to follow-up.

They discussed electronic vs mailed notification.

They discussed the repercussions of mistakes made on notice. Rasmussen said that clerical errors that are not prejudicial are not usually an issue.

Newton said that he is leery of more ways for the City to make a mistake.

Adams answered questions from Rasmussen and the Commission. Adams said that either way his decision is going to be appealed and go to LUBA. He also noted that most appeals are between neighbors. Adams said that decisions are generally posted on Accela within 24 hours. Adams said that there are lots of ways for people to find information and he is worried about mistakes being reasons to throw out a decision.

Rasmussen clarified that things would go to the PC and CC before going to LUBA.

Adams said that his goal is to get things cleaned up through the Code Audit and not get bogged down in these sorts of issues. He said that the change would be a large strain on City staff.

Moritz asked Rasmussen to look at how this process could be simplified.

Rasmussen agreed to ask other jurisdictions about their workflow for similar ordinances.

Sinclair asked if it has to be in the code or if this could be a good faith effort.

Rasmussen said that it gives it more authority if it is in the code.

Kabeiseman noted that current notice standards comply with state law. This is a questions of if the City wants to go beyond that. He noted that this is the only jurisdiction that allows decisions of building permits to go before the PC. Kabeiseman noted that CB is small and and people care a lot. That means small things become a big issue. He noted that this prevents the PC and the City from looking at the larger issues.

They continued to discuss how they could change the proposal to make it more manageable.

Chair Newton asked if there was any more discussion. There was none.

INFORMATIONAL ITEMS

(6) Tree Report

No comments.

(7) Ongoing Planning Items

Adams noted that it was Katie Hillenhagen's last day tomorrow.

Adams gave an update on the Code Audit.

(8) Good of the Order

Newton thanked Adams and City Staff for all of the work that they have done. Newton also welcomed Les Sinclair as a new member to the PC.

They discussed a letter submitted by Rosanne Dorsey (attached at the end of these minutes).

Moritz said that they need to revisit their letter to the CC regarding stormwater discharge.

Kabeiseman clarified that the applicant for the development on Forest Lawn could still appeal the CC decision.

Newton asked St. Dennis if the City was doing anything in relation to the stormwater discharge on Forest Lawn. He said that he hoped the City was holding off on any action.

St. Dennis said that he was not aware of anything but he would have to look into it.

Bates had questions about why they were holding off on having a discussion.

They discussed the need to hold off on the discussion.

Sinclair thought it was open to interpretation and said that that emphasizes the importance of the code audit.

They discussed how to move forward.

Rosanne Dorsey said she got the letter late yesterday. She said she was fine with waiting until all decisions were made. She said that she thought it went to Public Works.

Dana Caldwell PO box 1305, Cannon Beach reiterated what Rosey was saying. She thought the pressure was on the City as well as Dorsey.

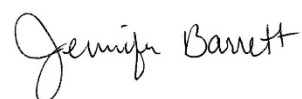
They continued to discuss stormwater on Forest Lawn.

St. Dennis said that staff has been directed not to do anything until the matter is resolved.

Newton summarized that during the discussion he heard that the City is not moving forward at this point and they are not compelled by the arbitrary timelines put forward by the developer.

ADJOURNMENT

The meeting adjourned at 7:40 pm.



Administrative Assistant, Katie Hillenhagen

Katie Hillenhagen

From: Rosey Dorsey <roseydorsey@gmail.com>
Sent: Thursday, September 22, 2022 11:46 AM
To: Katie Hillenhagen
Subject: Could you please get this to the Planning Commission tonight?

Hi-
I appreciate all you do.

Could you please get this letter to the Planning Commision for tonight? And if possible, let me know that you did?

Thank you so much-
Rosey Dorsey

Dear Dear Chair Newton and the Planning Commission and Public Works,

The City of Cannon Beach and I have received an ultimatum from Mr. David Pietka and I am turning to you for guidance. If you are not the correct commission to reach out to, would you be able to tell me how to get some clarification?

First, apologies for this letter in haste. The City of Cannon Beach and I received yet another of many notices and now an ultimatum late yesterday from Mr. Pietka about the stormwater issue. He has placed an October 15th deadline which is before you meet again so I felt I needed to get this to you because I feel even more vulnerable as we navigate the sensitive preservation of our Cannon Beach wetland.

Mr. Pietka wrote:

(I presume the Karen he is referring to is Ms. Karen LaBonte in Public Works)

Rosey, please read the attached and let me know when you will comply with my request.

Karen, please share the attached with all appropriate city officials. Please have someone contact me as soon as possible regarding how the city intends to address this issue. I am not repeating the background or restating the legal obligations of the offending parties. Everyone involved knows the issues and solutions are at hand. We are a cooperative land owner, further delays are unacceptable.

Mr. Pietka sent this attachment to me and the city yesterday as well:

The Patrick/Dave, LLC ownership is ready, willing and able to grant the city an easement as needed, allowing the city to move it's Forest Lawn Stormwater to the north before discharging the watter onto our site. We are ready/willing and able to assist Rosey with access along our shared property line between us to remove the discharge of her water from our property. This situation has been known to all parties since at least April of 2021 when the city informed Rosey of the issue. The city has also explored multiple options regarding the Forest Lawn stormwater. While the Patrick/Dave LLC ownership has shown a willing to help the city with a low cost solutions that willnot harm and could actually improve the wetland area on our property, an appeal slowed the process to a crawl. We want the city and

Rosey to take all necessary steps to eliminate the current discharge of water by October 15, 2022. We do not want to take any further action to force the issue noting that implementable solutions are readily available with no further delay.

The simple act of engaging Mike McEwen to do the necessary work in the next 3 weeks is the best possible solution for everyone. Please let us know by September 30 if this engagement will occur.

For the entirety of owning my property and building my home I have never been asked to contain my storm water. Many individuals have put bids on the wetlands. None have ever asked about my storm water. My home was 100% approved by the city in **July of 2006 as is**. The document that continues to be referenced by Mr. Pietka in **2004** is a document that my contractor, Coaster Construction, received and we had not broken ground on my property yet.

Does the code even apply to wetlands? I fully understand if I were trickling onto Stephanie and Ryan's buildable lot on the South side of me that the criteria might be different but according to you and the city I am not draining on buildable land so asking us to do this now seems punitive. I may be wrong.

I have heard repeatedly in many meetings now that the storm runoff is essential to the wetland. It is hard to acquiesce to this ultimatum when the Planning Commission and City Council have denied the entire development, yet we are being commanded to remediate an issue that may damage the wetland. It is equally difficult to decipher the "truth" when the only people that support this development are individuals being paid by Mr. Pietka. I don't think I have heard any individual from our community or city representatives who wholly support this project. I have heard phrases throughout all these meetings that I might have an easement or grandfathered in or that enough time has passed that this is no longer a viable contestable issue. I honestly don't know.

I have heard only the best things about McEwen and have had professional correspondence with him over the past few months requesting bids and gathering ideas about my project. I have contacted other contractors as well. **I believe I have a right to bids** and options as to how best protect the wetland, as well as satisfy our entire community as well as Mr. Pietka, Local Portland contractors are not really interested in touching this project and I have been told by more than one person that they won't do the job because stormwater is allowed to drain on a wetland and it is unethical to do what I am asking. As everyone knows, getting work done during COVID seems to take twice as long but I have tried.

I am now, unfortunately, very uncomfortable after yesterday's letter from Mr. Pietka about McEwen but this is no reflection on Mr. McEwen at all. It feels disingenuous to me that Mr. Pietka is requiring this of us and perhaps even a conflict of interest to have the developer, who lacks the Cannon Beach community, Coastal community and city support, tell us who to hire and get the job done in 3 weeks!

I am a good neighbor but also a good citizen of Cannon Beach. I have been doing my best. I have two new contractors I am in contact with seeking options and bids but I do also have a full time job teaching vulnerable kids plus COVID so if I need to drop everything I will but I am not sure that I am even supposed to stop the runoff at this time. There is so much information in the thousands of pages submitted that it takes me quite a long time to even find the relevant material to the storm runoff.

I understand my responsibility to control my storm water runoff and I'm working on getting bids for either joining the existing city line or creating a bioswale. I would like assurances from the City and Planning Commission that either option is acceptable.

I would also like to know the City's intent regarding the storm water line along Forest Lawn. Does the City intend to extend the storm water line and relocate the storm water discharge point along Forest Lawn as Pietka demands? If so, why? Isn't a conditional use permit required? Wouldn't this be in contradiction to Pietka's representatives statements before the City Council earlier this week that movement of the storm water line was unrelated to their housing development **and that a bioswale could be considered to keep storm water**

runoff in the wetlands? What is the City's roll in this matter? Have promises or assurances been made by the City to Mr David Pietka regarding a storm water relocation project?

I also would like confirmation from Mr. Pletka that this project, as well as removing trees and degrading the wetland near my property will have ZERO impact on my own foundation. I feel I have a right to that confirmation before I do anything as my home was 100% approved by the city in 2006 with the understanding that the wetlands would not be developed.

As a side note, we are passionate about water and water conservation to the point that my son, finishing his Mechanical Engineering degree this year, has been selected to work on a team to prototype water filtration of E Coli in Africa, and ultimately globally if it is successful. We want to make the right decision for all parties, not just that of the developer or myself.

I am not one to pull out the personal card but I have received multiple emails trying to get me to hastily do this project while I have had a terrible case of COVID for a month and have Long COVID symptoms and desperately trying to have an incredible start to my 40th year of teaching and possibly my last. This is really causing me a lot of stress and impacting my health and recovery.

Thank you for receiving my letter at such notice. I truly appreciate all you are doing in the best interest of the City of Cannon Beach.

Best,

Rosey Dorsey
1603 Forest Lawn Road