

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, July 28, 2022

Present: Chair Clay Newton, Commissioners Lisa Kerr, Barb Knop, & Mike Bates in person;
Charles Bennett, Aaron Matusick, and Anna Moritz via Zoom

Excused:

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

Other: Eddie Montejo, Transportation Planner for Parametrix; Michael Duncan from ODOT

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

Motion: Moritz moved to approve the agenda as presented; Bennett seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of June 23, 2022

Motion: Knop moved to approve the minutes; Kerr seconded the motion.

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

(3) Consideration of the Minutes for the Planning Commission Meeting of July 6, 2022

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

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

**(5) Continuation and Consideration of CP#22-01 Adoption of the Cannon Beach Transportation
System Plan (TSP), as supporting material to the Comprehensive Plan.**

Jeff Adams on behalf of the City of Cannon Beach, seeks the adoption of the Cannon Beach Transportation System Plan (TSP), as supporting material to the Cannon Beach Comprehensive Plan. The TSP is in accordance with Oregon Revised Statutes OAR 660 Division 12, Transportation Planning Rule, which implements Statewide Planning Goal 12. The request will be reviewed against the criteria of the Cannon Beach Comprehensive Plan and Municipal Code, Section 17.86.070.A, Amendments, Criteria.

Adams put the edits to the TSP up on the screen.

Chair Newton asked for public comments related to the TSP.

Lolly Champion, PO Box 416, Cannon Beach. Champion read her comments. She felt the TSP has become an overburdened wish list that is not in line with the village character. She suggested limiting traffic into Cannon Beach. She also expressed a wish to see more receptacles at beach entrances.

Randy Neal, PO Box 1092, Cannon Beach. Neal said that he is not a fan of the plan. He said that there was a lot of input, but he felt it led to standard suggestions that were not what the community asked for. He noted the suggested edits that he turned in as written comment.

Hannah Buschert, PO Box 97, Cannon Beach. Buschert said that she would like to see more to address large vehicles. She would like to see a plan to accommodate them.

Erik Ostrander, PO Box 97, Cannon Beach. Ostrander said that he was concerned about funding coming from raising gas and lodging taxes. The wording related this had been changed from *may* to *shall*. He also had a question about the funding for a multiuse trail. Three dollar signs had replaced a dollar amount and he was not sure what three dollar signs means.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach. Siebert-Wahrmund asked that if the tsunami evacuation tower is not taken out of the TSP that it not be used as a parking garage. Siebert-Wahrmund felt that the City didn't need more parking but rather less vehicles.

Chair Newton closed the public testimony and moved to discussion.

Bates had concerns about not having time to look at all the changes.

Kerr suggested several edits to the draft. It was agreed that Kerr would send the wording for the edits to Adams after the meeting. Proposed edits included:

1. Policy 5, page 33: add "and implementing policies that preserve our natural environment including wetlands, trees, and wildlife.
2. 5.4: add "In determining future transportation needs, primary considerate to preservation of nature resources and environmental protections.
3. 3.2.2, page 35: change "may minimize addition of new accesses to Hemlock, change "may" to "shall"
4. Page 85: first paragraph last line, take out "as much as possible" and change "would be done" to "will be done."

5. Address safety on S-curves and add language regarding possibility of lowering speed limit
6. In policy—add language about RVs

Adams suggested adding RV parking to the wayfinding section.

Kerr thought the speed on Hemlock should be lowered. She also thought new trash receptacles should be added if people are going to be encouraged to walk.

They discussed issues related to RVs.

Montejo thought they needed to look at a good place to site these RVs. He thought that was a whole process in itself. For that reason, he thought it should live in the policy section of the TSP.

They discussed how to incorporate changes suggested tonight.

Adams said that they can approve it with amendments that they want to see.

Montejo discussed how they could incorporate addressing issues related to RVs.

Bates thought it should be addressed as a project. The commission reached a consensus that it should be addressed in the project section.

Kerr asked how the speed limit on the S curves could be addressed.

Montejo suggested adding something to reevaluate the speed limits in the S curves.

Duncan said that typically they conduct a speed study when they want to address a speed issue. He said that it is important to add features that help encourage the desired driving behavior. Duncan added that the point of the study was not to show that a slower speed is safer, but to see how people drive in the area. He suggested partnering a lower speed limit with other measures to encourage slower speeds.

Montejo suggested that they add changing the speed limit on the S curves as a project.

St. Dennis said that the Planning Commission is an important board, and they can make a recommendation to City Council at any time related to something like the speed limit on the S curves.

They discussed the use of the word shall in the TSP, particularly in relation to the lodging tax. They thought there may have been some miscommunication about the use of shall and may. The Commission decided that the draft needed further review.

Motion: Kerr moved to have her suggested policies added; Bates seconded the motion.

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

The Commission decided to continue the TSP until the August PC meeting.

(7) Continuation and Consideration of P# 22-01 & CU# 22-02, Jamie Lerma request, on behalf of Patrick/Dave LLC, for a three-lot Conditional Use Permit three-lot Partition in the Wetland Overlay Zone.

Jamie Lerma, on behalf of Patrick/Dave LLC, request for a Partition and a Conditional Use Permit for a three-lot partition in the Wetland Overlay Zone. The property is located at the corner of Forest Lawn Rd. and S Hemlock St. (Tax Lot 04100, Map 51030DA) in a Residential Medium Density (R2) Zone. The request will be reviewed under Cannon Beach Municipal Code, Sections 17.43.040 Conditional Uses and Activities Permitted in Wetlands, 17.43.045 Conditional Uses and Activities Permitted in Wetland Buffer Areas, and 16.04.130 Subdivisions, Applicable 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 if the applicant wished to speak to the letter submitted concerning Commissioner Bates.

Stapleton said he would like to hear from Kabeiseman first.

Kabeiseman explained the concept of impartiality as it relates to Planning Commissioners. He did not think there was an issue based on Bates article in Hipfish. The court of appeals has said that the bar is high, and that there must be shown bias. Kabeiseman noted that the application that Bates was referencing in his articles was in relation to 8 lots and the current application is for 3 lots. He advised that if Bates thought he could be unbiased he should be allowed to participate.

Bates said that he could participate without bias.

Newton asked if anyone objected to Bates participating.

No one objected. The applicant's council said that they appreciated the issue being addressed.

Adams summarized his staff report. He noted that a lot of material had come in since the staff report was written. He discussed the size of the wetland and noted that the most recent mapping, in 2021, showed a 15% reduction of the wetland over the past thirty years. Adams noted that the City's 5-foot buffer stands as the required buffer. He also noted the updated tree submissions from the applicant and a new tree report from the City's Arborist. Adams said that the access issue, in regard to accessing the property of Hemlock, was up to the council to decide.

Bates asked if the applicant brought their arborist.

The applicant confirmed that they had their arborist and Geotech specialists available to answer questions.

Chair Newton called for public testimony.

Chair Newton stated that the pertinent criteria were listed in the staff report and criteria sheets next to the west door; testimony, arguments and evidence must be directed toward those criteria; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue; prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional testimony, arguments or evidence regarding the application. The Planning Commission shall grant such requests by continuing the public hearing or leaving the record open for additional written testimony, arguments or evidence; persons who testify shall first receive recognition from the Chair, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Chair Newton asked if the applicant wished to make a presentation.

Reed Stapleton land use planner with DOWL and council for the applicant, shared his screen. Stapleton addressed the key issues raised at the last hearing: wetland preservation, tree preservation & protection, and geological hazards. Stapleton said that they want to preserve wetlands as well and noted they will be making a covenant to protect the wetland on the property. He pointed out that they have minimized the number of trees needed to be removed by updating the site plans. 11 trees were previously slotted for removal and that had been reduced to 7 trees. He noted that 80% of the trees on the site will be preserved.

Troy Hull from Earth Engineers spoke about the Geotech Report. Hull noted that he has been working on the coast in numerous projects over the last twenty plus years. He discussed geologic hazard mitigation. He shared maps showing that the subject property and most of Cannon Beach are located on land with a moderate landslide hazard rating. Hull said that most of Cannon Beach is covered by the same giant landslide. Hull concluded by stating that they had identified the hazards on the property and provided the necessary mitigation.

Chair Newton called for proponents of the request. There were none.

Chair Newton called for opponents of the request.

Lolly Champion submitted a petition signed by citizens who oppose the project. She had concerns about past projects done by the owners. She also voiced concerns about there being discrepancies between what they say they will do and what they will end up with.

Mark Gibson said that it is obvious that they need to protect wetlands.

Ronald Shapiro, PO Box 738, Cannon Beach. Shapiro admitted that he has bias, he walks by the subject property daily. He said that they can employ experts to say whatever they want them to say. He felt that they say they will only remove so many trees and then more will be impacted in ways that necessitate their removal.

Ulisse Pardini said that the wetlands have been an island in the City for decades and he would like to see it stay that way. He discussed how the elk population was impacted when the Pig N Pancake was put in and that there was remorse after the fact.

Hanna Buschurt said that she has done coursework related to biology and land use policy. She discussed the bird species on the wetland. She discussed the US history of wetlands and how the amount of land covered by wetlands has shrunk. Buschert said that it is essential to preserve them.

Susan Glarum, PO Box 108, Cannon Beach. Glarum read a quote by James Paino that she thought spoke to the issue. She felt it was important to be protective of the aesthetics and livability of the community. She said that we risk losing this if we let it be developed. Glarum noted that birds rely on snags and the bugs that live in snags. Glarum discussed the benefits of wetlands.

Jan Seibert-Wahrmund spoke on behalf of herself and Wes Wahrmund. She said that these decisions are crucial to the climate crisis we are facing. She asked for a continuance of the hearing so that the Commissioners can fully review the record.

Anita Dueber, PO Box 694, Cannon Beach. Deuber felt that this property was an icon on par with Haystack Rock. She urged them to deny the request.

Rosanne Dorsey, 1603 Forest Lawn Rd. Dorsey said that she owns the home closest to the wetlands. She discussed drainage and sewage issues on her own property. She noted that there is one entity that wants to develop the wetlands but many who oppose it. Dorsey said that she was denied Hemlock access when she built her house.

Chair Newton asked if the applicant wished to make additional statements.

Stapleton said that they would like their arborist to speak. He also said that they would be willing to post signs around the wetland that they are protected areas that people must keep out of. He noted that they are avoiding any tree removal within the wetland.

Todd Prager, Arborist for the applicant. Prager said that he has over 20 years of professional experience as an arborist. He said that he was asked to reassess this project and came up with a redesign to minimize the impacts on trees. He said that the main way to protect trees is to ensure appropriate setbacks for construction. He went over how they calculate the tree protection area. Prager noted encroachments into those zones on the earlier plan. He said that they made adjustments to adhere to those standards. He also said that he wanted to avoid paving within the root zones of trees to be protected. He suggested having gravel drives. He said that he would also recommend snag retention where they are not a danger to a building. He noted that precautions will be taken with stump removal to avoid damaging surrounding trees. Prager said that they also discussed pier foundations with the team to avoid damaging roots.

Bates said he would like to congratulate Prager and the applicant on their work related to tree preservation. He also asked if the applicant was in agreement with their recommendations for pier foundations and in general.

The applicant said that they were open to that.

Moritz had questions about adhering to conditions that are put on the application.

Stapleton said that there would be conditions on the plat that would become part of that review.

Adams agreed that using the plat was a good method.

Kerr had concerns about conditions being adhered to. She did not see how they could guarantee these things without building plans.

Stapleton said that they have looked at the maximum envelope and have accounted for that.

Bates asked if they would be willing to have a condition to replace or pay for any trees inadvertently damaged.

Stapleton said he would need to speak with his client about that.

Newton asked about runoff.

Stapleton clarified the language. He said that runoff from the property would be pumped to the city outfall pipes.

Bates had questions for the geologist.

Hull answered his questions. He discussed how they assess a site.

They discussed geological hazards on the site and in the city in general.

Bates asked the wetland specialist about what he thought the impact would be on the wetlands.

John Van Staveren, Senior Scientist for Pacific Habitat Services. Staveren said that wetlands are fragile but also resilient. He noted that the wetlands on Forest Lawn have had an indirect impact from when roads and surrounding houses were put in. He said that he did not think that the piers for a pier foundation would affect the wetland at all. He noted that they use helical piers in trail design because they are like a corkscrew that goes down into the soil. They use them when they want there to be no impact on the wetland.

Bates asked what suggestions he might have to mitigate the impact on the wetlands.

Van Staveren suggested providing education and keeping people out of the wetlands by posting signs.

They agreed that there would be some indirect impact on the wetland.

Bates had questions about the storm drain and whether or not it would be directed away and down Hemlock.

The applicant said that they are proposing discharging stormwater into the City's drainage system.

Bruce St. Dennis brought up a picture of the current storm drain infrastructure. It was noted that the water being caught in the storm drain is drained into the wetland.

Bates said that the resolution of the stormwater drain is critical to the decision. Newton agreed with his concerns.

They addressed the request for a continuance and discussed the possible timelines in relation to the 120-day rule.

Motion: Knop moved to not continue the hearing; Bates seconded the motion.

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

They discussed the issue of stormwater discharge and the neighbors storm water that drains onto the subject property.

Kabeiseman reminded the Commission that the application before them needs to be addressed. He said that wetlands and storm runoff are important but are not the issue tonight.

Kerr mentioned the deed restriction on the land that limits the access to the lots to Forest Lawn. She suggested that the application should be denied based on the proposed access from Hemlock.

Kabeiseman noted that they could deny the application based on the plat restriction related to access.

Kerr felt that they should have the purview to deny the application because it is a conditional use. She did not think that a demand for housing applied here because it is luxury housing and is not needed. She felt that they should deny the application for these reasons.

Moritz agreed and felt that the project would displace an option for future housing that they need. She said that if the applicant would be willing to make it middle- or low-income housing, they would then be talking about needed housing.

Newton brought up the geological hazards. He was very concerned about the geological hazards.

They continued to discuss geological hazards.

Bennett added that they should include the access issue from Hemlock in their denial.

Moritz suggested adding that their application does not show a demand for this use.

Motion: Kerr moved to tentatively deny the application based on the following conditions: there is a plat restriction that limits access to Forest Lawn.; 17.43.050 Standards have not been met; the project is not beneficial to the City pursuant 17.80.010; there is no evidence that a demand exists for housing at the proposed location. Knop seconded the motion.

Newton amended the motion adding that the application does not meet 17.50.010.

Kerr and Knop accepted the amendment.

Moritz amended to clarify that the application does not fill a demand for middle-income housing, so it does not meet 17.80.110.

The amendment was accepted.

Newton amended stating that the application does not meet standards under 17.43.010 including 17.05.050.

The amendment was accepted.

Moritz suggested having commissioners review the Findings before the Findings Review Meeting.

Kabeiseman said that was fine as long as a quorum was not involved in that process.

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

Chair Newton stated the project is denied.

Newton had questions about how to address storm water drainage concerns.

Kabeiseman suggested they draft a letter addressing their concerns and send it to the City Manager or City Council.

It was agreed that Kerr, Newton and Moritz would assist in drafting the Findings. A Findings Review Meeting was set for Thursday, August 11th.

Kerr, Moritz and Newton also agreed to draft the letter related to storm water.

(8) 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.

John Neupert suggested postponing till the next session.

The Commissioners agreed.

INFORMATIONAL ITEMS

(10) Tree Report

Kerr had concerns about a tree on a property that was recently given a setback reduction. She thought they were not going to bother the tree, but some major limbs had been cut back. She remembered them promising that they would not damage the tree.

Adams said he would have to go back and check the record. He remembered that they might have said they would have to trim the tree.

(11) Ongoing Planning Items

Shoreline CUP Status Update – St. Clair said that three of the shoreline conditional use projects had been completed. Only one was not completed. He said that they appear to have been constructed in a way that was consistent with the application. He noted that they were able to use images from recent drone footage in the reporting.

Newton had questions about monitoring what was being brought on site.

St. Clair said he was able to see truck loads but was not able to be down there all day.

Newton asked about the living wall.

St. Clair said he would be drafting a report on that for the next meeting.

Kerr noted that she went by the property and Mr. Bouvet seemed to be making a good effort to improve the conditions of the living wall.

Adams noted that the next Joint Code Audit Session will be Sept. 7th.

(12) Good of the Order

They discussed the 7-7-7 rule and how it could help with materials coming in late.

ADJOURNMENT

The meeting adjourned at 10:10 pm.



Administrative Assistant, Katie Hillenhagen