

**Minutes of the  
CANNON BEACH PLANNING COMMISSION  
Thursday, June 23, 2022**

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

**Excused:** Aaron Matusick

**Staff:** Director of Community Development Jeff Adams, Land Use Attorney Bill Kabeiseman, City Planner Robert St. Clair, and City Recorder Jennifer Barrett

**Other Attendees:**

**CALL TO ORDER**

Chair Newton called the meeting to order at 6:03 p.m.

**ACTION ITEMS**

**(1) Approval of Agenda**

**Motion:** Kerr moved to approve the agenda as presented; Bates seconded the motion.

In response to Newton's question, we have the combination of P22-01 and CU22-02 together, are we making one ruling, how do we rule, Adams replied it is two applications a condition use permit and partition.

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

**(2) Consideration of the Minutes for the Planning Commission Meeting of May 26, 2022**

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

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

**(3) Public Hearing and Consideration of SR# 22-02, Aric Barnes request, on behalf of Cadwallader & Kramer Family Trust, for a Setback Reduction to add a gabled-roof to an existing flat-roofed garage.**

**SR 22-02,** Aric Barnes, on behalf of Cadwallader & Kramer Family Trust, application to allow a setback reduction to reduce the side yard setback from the required 5'0" to 3'9" to add a gable roof to an existing flat roof garage, according to chapter 17.14 Residential Medium Density Zone of the

Municipal Code. The proposed work will not increase the footprint of the preexisting structure. The property is located at 208 E Jackson St. (Tax Lot 03300, Map 51029BC), and in a Residential Medium Density (R2) Zone. The request will be reviewed against the Municipal Code, Section 17.64.010, Setback Reduction, Provisions Established.

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 called for the staff report.

St. Clair summarized the staff report. In response to Newton's question so it's a gable, St. Clair replied correct.

Chair Newton called for additional correspondence?

St. Clair replied there was a comment from neighbors that were included in the packet, but nothing since June 15.

Chair Newton stated

The pertinent criteria to be considered are noted in the staff reports and listed on the criteria sheets on the meeting page of the City's website; Testimony, arguments and evidence must be directed toward those criteria or other criteria in the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; 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 is there a presentation by the applicant?

Aric Barnes on behalf of the application Cadwallader & Kramer, I am the builder, PO Box 697 Seaside. Melissa Cadwallader asked me to improve the property by redoing the siding, the garage was leaking, they've had flat roofs on it and asked what can they do. We said you can do a gable roof which would match the front and back of the house, noting the setback issues. Do not want to add any footprint, but put a roof on that will not leak.

In response to Newton's question in terms of gable coming down, there is a fence on the eastern property line, how close does the fence come to the gable, Barnes replied it is probably 4 feet, giving an overview.

Chair Newton asked are there presentations by proponents?  
There were none

Chair Newton asked are there presentations by opponents?  
There were none

Chair Newton asked is there a staff response?

St. Clair replied staff recommends approval with the condition that a building permit be obtained prior to start of construction and an application for a building permit has been made. Adams added by approving it, its' not for this ownership, but for the life of the property. If it is closer to that setback if you do want to limit a future second story and keep it at the gable roof you can add a condition to the existing height as shown on the plans, if you wanted to add the condition.

Chair Newton asked does the applicant or proponents wish to make additional statements?

Barns replied they just want a gabled roof over the top and are not asking for an apartment or studio.

Chair Newton closed the public hearing and move to consideration

Chair Newton asked there a motion to approve/approve with conditions/deny the application?

Motion: Bates moved to approve for staff recommendation with the condition added; Moritz seconded the motion.

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

**(4) Public Hearing 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.**

**P 22-01 & CU 22-02**, 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. Chair Newton asked if any Commissioner had personal bias to declare. Bates replied I do not have personal bias but did write an article in Hipfish letting the public know it was coming up and if they were interested, they should get involved. Chair Newton asked if any commissioner had any ex parte contacts to declare. There were none. The commissioners declared their site visits.

Chair Newton called for the staff report.

Adams noted for large projects we are have a webpage with the application materials and post items as they come in, then post to the meeting page as addendums when materials come in after the packet has been posted. Adams read the summary & background and staff comments from the staff report.

Adams added the City Arborists is on Zoom, I didn't not have his report at the time of the staff report.

Jeff Geahardt, City Arborist. I made a site visit on the 13th to visually inspect the trees on the site, noting the constraints of the site. Gerhardt noted when overlaying with the three houses there will be extensive damages for residents' driveways and utilities that will be required to access the lots and because of this several trees will be deemed hazardous. I approximate there will be at least 15 trees that will change Forest Lawn to just lawn. Under the subdivision ordinance applicable standards 7 & 8, reading the text, there has been a big emphasis on protecting the wetlands but I don't feel much has been said to protect trees. My recommendation is to retain more trees on the property and consider limiting to only 2 buildable lots or only one to lessen the impacts. O would also like to see TPZ in place before conditional approval is granted. The city does this during new construction. My last concern with the project is the applicants arborist deemed several trees as hazardous, but where they stand now there is no target so depending on where we place these homes they may not be a hazard. There may be more opportunities to preserve more trees on this property.

Adams continued reading the staff comments from the staff report. Adams asked any questions, bates replied I have a lot of questions, not sure when it would be appropriate. Jeff this is just re: the SR. bates who sets the buffer area, Adams replied it's in the code.

Newton asked we should decide as a group do we want to ask questions before we do testimony, Bates and Moritz replied testimony first.

Chair Newton stated

The pertinent criteria to be considered are noted in the staff reports and listed on the criteria sheets on the meeting page of the City's website; Testimony, arguments and evidence must be directed toward those criteria or other criteria in the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; 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 is there a presentation by the applicant?

Jamie Lerma, PO Box 825, Cannon Beach. I am the applicant representing Dave and Pat LLC. We have our land use planners on Zoom. Lerma Introduced himself and owners of property, giving an overview of their history in Cannon Beach. Lerma added we expect to be held to the highest standard to the application and hope to be collaborative in this project. From the inception we discussed preserving the wetland and trees on the site. We discussed donating to the city the north 60% of the property to North Coast Land Conservancy and they refused it. We wanted to do it with \$25,000 of seed money but they were not interested due to the size, it being too small. The thought has been low density, high quality homes would best fit the character of the neighborhood. If we are successful, I would be the homebuilder I live her locally, and I've got 25 years experience building homes, given an overview of experience.

Matt Robinson, DOWL 720 SW Washington St. Portland. Land Use Planner at DOWL Robinson shared his screen and presented a PowerPoint which gives an overview of the site and proposal, a copy is included in the record. I am happy to answer any questions.

Kerr asked I am curious, you said that you originally proposed giving part of the land to NCLC but they rejected it since it was too small. What would you think of donating all the wetlands where you are not building for conservancy, why isn't that a consideration, what do you think about it? Robinson replied

so the code allows you to use wetland and wetland buffers to meet setback standards and minimum lot dimensions. Our three proposed lots are meeting those R2 zone dimensional standards by having the wetlands and wetland buffer areas within them. We had in the past looked at donating but recording a conservation easement over the wetlands will essentially accomplish the same thing. Lerma added if the city were to accept the donation that we would be willing to make it, we discussed that earlier in the process but it may not have made it to staff. We pursued the donation to NCLC with seed money. Robinson added if the wetland was donated they would need its own lot, noting the reasons why.

Bennett added there can be many reasons why an organization doesn't want to accept a donation of property, I think that is a separate decisions. Adman added the same for the city, we would have to take on the maintenance and obligation. It was brought up early in the discussing there are two options, go to council or conservancy to see if they want. A conservation easement that says no further development puts the onus on them to upkeep.

Newton added is there anything in this packet we were given that talks about conservation, Adams it is not in the packet. Robinson added we submitted a letter last Friday that identifies our intent. Moritz added it is in our packet.

In response to Bates question isn't a wetland under delineation considered a water of the state, Kabeiseman replied yes. Bates added and that requires a 50-foot setback. How would you get away with that? Kabeiseman replied I am not sure about that, noting our code requirements. Moritz noted there is a state letter that indicates that they are not considering this a water of the state. Newton added can we get back to that so we can back to testimony.

Moritz added there has been several references to the fact that it helps the housing issues, we don't need expensive homes we need affordable housing. Adams replied there is nothing in there that has any restriction to housing. Robinson noted that is correct, a discussion ensued regarding affordable workforce housing needs and the report statistics in the packet.

Renee France Land Use Counsel for the applicant, 111 SW Columbia St., Portland, OR 97211  
I'd like to provide a bit of background on letter that was submitted into record in response to the letter from the city's arborist. It is important to understand that this is an application for resident lots and under state law, whether the applicant has matched the clear and objective standards of the Cannon Beach code. Neither 17.70 tree retention or subdivision standards stated by the arborist are clear and objective standards, summarizing the letter. We agree with the setback that those standards have been met and if Planning Commission cannot use those standards of a basis of denial of the application. Bates replied we have no obligation to partition this right? I mean that's the clear standard for you, yet it is a partition application for a residential lot and therefore we believe that the statutory provision requiring the application of clear and objective standards to this decision applies, we can go through every one of your points and we'll point out we can point out whether where you don't apply. So, let's get to the um let's get to the citizens and then get to the meat of this

John Van Staveren Pacific Habitat 9450 SW Commerce Circle, Suite 180, Wilsonville

I first delineated the wetlands in 1990 and recently had both delineations approved by DSL and the most recently by ACOE. Water of the state does not require a 50ft buffer, and Department of State Land and Army Corp of Engineers do not require a 50ft buffer.

Chair Newton asked are there presentations by proponents?

There were none.

Chair Newton asked are there presentations by opponents?

Lolly Champion 428 Elk Creek Road, #602

In listening to their presentation, they would need to if dedicated to the city it would need maintenance and reading the report not sure what maintenance it would need. I am speaking for a number of people; we've been looking at city ordinances and would like to read a statement. The statement has been included in the record. We are opposed to this request for extensive removal of trees to development lots. This has been identified in the city's own report, giving an overview of root systems in a wetland. The public benefit of the trees should be preserved. We are opposed to adding development potential in or adjacent to the wetland overlay zone. The applications should be allowed to build what is currently allowed in code but not be allowed to further erode our trees in sensitive environmental areas and wetlands to have the added benefit of increased profit the building lots would give them. we request more clarity and zoning in the code to protect trees. We request the PC supportive in robust evaluation to the extent possible to require compliance with criteria to future construction instead of defraying construction in time with bp. We haven't seen the plans so we don't know the what we are dealing with. We request PC open leave the hearing open to allow for submission of additional evidence arguments and testimony regarding this case file for at least seven days following Thursday today June 23rd public hearing. Please notify of any further decisions reports or notices issued as public hearings in this related manner we request asking the applicant for more detailed site plans a more detailed site plan allowing the exact location of the proposed structures driveways and associated components to the relation of the wetland that would ensure that both the planning commission and the public could fully understand the address the potential adverse impacts of the wetlands and ensure compliance with the code. I am leaving numerous names on a petition. I would like to stand with Mr. Neal on the TSP to hold before passing it on to council.

Roger Neugebauer PO Box 244 Cannon Beach

For 40 years I've been coming to Cannon Beach, the last nine we've been owners. 4 years full time residents. We are here because of the incredible beauty natural beauty, love the ocean, beaches, hills and trees. Now we hear the city leaders think we are not good enough and think we need to upgrade to compete with cities up and down the coast. It's clear you will never get rid of the ocean, the beaches are safe but the trees in Cannon Beach are increasingly vulnerable. The wetlands in question have from 11-20 wonderful trees. These trees have been reaching their fruition growing in some cases over 100 years but in a single vote they can be doomed to extinction. Hope we as a city can continue to embrace our natural beauty and not compete with city's along the coast.

Mark Gibson 420 Elk Creek Road Cannon Beach

We are relatively new residents, been here since 2017. We are teachers and have a little girl and love coming to Cannon Beach. We've seen quite a bit of change with the number of trees taken down in that short time and its heartbreaking and you feel powerless. Can't we somehow figure a way to build around them. Save our trees.

Wes Wahrmond and Jan Siebert Wahrmond on behalf of Friends of the Tress. PO Box 778

Dear Planning Commission, we object to proposed subdivision on Forest Lawn Road. It's our understanding that the three building envelopes would be on the southern portion of the property where there is a little bit of upland. A large significant wetland on the rest of the property to the north. It appears that the developer applicant is proposing to cut down 11 trees in order to build homes on the current proposed Lots. The City arborist in his initial tree plant review of Forest Lawn partition written on June 19th 2022, it's likely that even more than 11 trees would be cut in the excavation construction process. In his assessment he found that many of the trees are mature evergreens and that their removal would mean the loss of most of the mature evergreens on the property. The forested canopy of the Forest Lawn neighborhood would thus be greatly impacted we urge you to deny the subdivision of this property and to limit the developer applicant to one house for the sake of the neighborhood the integrity of the forested wetlands. We request this public hearing be continued leaving the record open for a submission that more evidence arguments and testimony have to do with this case for at least one week from June 23 2022. We also asked to be notified of any future reports notices or decisions and any public hearing regarding that pursue ORS 197.7636.

Kathy Coyne 147 E Washington

In the presentation from the developer I heard that it's just a vacant lot. But a wetland is not just a vacant lot. Its home to a plethora of plants and animals. Taking down 11-30% of trees, I heard there will be no impact but taking down 30% is an impact. Wetland is a fragile ecosystem and request the Planning Commission to further review the situation. I would like the development be denied and thank you for your time.

Susan Glarum PO Box 108

I've been here my whole life, have an investment in this place. I respectfully request that the PC recommend the CC deny the 3 lot partition. I also ask the council to deny the condition use permit. I have question regarding this application, ORS 92.010(9) defines not more than 3 partition land within a calendar year. Does this mean in another year another 3 could be parceled? Under Cannon Beach code only numbers 2, 7, 9 were determined by staff to be applicable. Why wasn't number 5 included? I am not a soil engineer but wonder how possible for wetlands to no have weak foundation soils. Also, number 8 policy 15. Any building on this property will require the removal of trees thereby altering the aesthetic of the city's characters. My heart burst at the thought of losing the trees and Cannon Beach has already removed too many trees. It's a travesty at how many trees have been removed in last year. This application is lengthy and unclear. Is Cannon Beach in such desperate of three more no doubt expensive single-family homes that it would allow this wetland be ruined forever. Once spoiled, a wetland will never be made whole again, comparable to coral reef and rain forest, noting the benefits of wetlands. Every wetland should be protected as an invaluable treasure. Please save this beautiful piece of property to be ruined for the sake of corporate greed.

Robert Coyne 147 E Washington

We came to Cannon Beach as teachers, administrators and professors to get away from it all. Giving an overview of his background. One of the things we did in class was look at environmental impact statement process, decide where the thresholds are, giving an overview of the process. Wetlands always made it to the EIS phase. I talked to city leader about the EIS process, and he said we go by what's in the zoning, and next week will be looking at changing some of the zoning rules with Council. If you apply before the change is made you go with the old one. Within a wetland area you need to do an environmental impact statement. Wetlands are a threshold. Oregon is losing 20 acres of wetlands a day. Guide said you can put a wetland somewhere else so if you take away one you make a new one, that's the way developers are doing this. What I would put in an EIS is

- Access to Hemlock

- Boring, did either side but not in the middle yet
- Trees, who cares if it is leaning, you don't take it down because its leaning
- Shorebirds – peregrine falcons, where will they go for water, they may have gone to that wetland to get their water, could be other birds too. Suggest they hire someone to do a study of all the birds in the area to ensure we don't lose any
- Water drainage
- Building a new wetland seems absurd but do it
- City person I talked to, whatever is designated as wetland is where you need to study.
- Housing needs giving past numbers and how they increased
- Cost of the land, reason so little because people know it was a wetland

People came in and are using our zoning laws against us. If you have 5 speakers with the development company they are getting a lot of money and houses will be mega priced high end. So, the city makes a little more in tax. I was pleased with the Japanese tsunami when the Cannon Beach warning system was on the news all the time and so pleased when the city bought land to protect the watershed. Please help us protect the land.

Bonnie Neugebauer PO Box 244

Thinking about how complicated this is and how hard a decision you will have to make. Going to connect to all the disasters that are happening. I know there will be an impact on the health of our planet. My request is to take all the time you need and get all the opinions and expertise and make your decision carefully and wisely.

Jan Siebert-Wahrmund and Wes Wahrmund PO Box 778

We ask you to deny the applicant's request for a three lot partition and conditional use permit for a partition in the wetland overlay zone. Rather than allowing three houses to be built on the property we ask you to allow just one house to be constructed. We also ask that you make sure the applicant comply with all standards which have to do with lessening the harmful effects of construction now rather than waiting until the time of obtaining a permit or building. Please consider requesting the applicant to provide a specific site plan indicating the precise possession of the intended house driveway and other veteran elements regarding the large wetlands. This would help the planning commission and the community to better comprehend and protect the wetland from possible negative effects. We ask you to make sure that Cannon Beach municipal code and comprehensive plan policies are carefully followed as well. We also ask that you require the applicant show how he will comply with the standards that apply within these codes in the present public conditional use process rather than during the later building permit process. Doing this in public rather than only by administrative review gives the planning commission and the community more ability to oversee the protection of this important wetland thank you.

Robert and Heidi Klonoff PO Box 902, Cannon Beach

I am a Professor at Lewis and Clark law school which is known for its environment program so this is a particularly sensitive uh issue for us. We are talking about a wetland area, one of the last remaining ones in Cannon Beach. We are talking about the destruction of 11-15 trees. The arborist put is well, that Forest Lawn will lose the Forest and just be lawn. I worry this will change the character of Cannon Beach, a city that historically has been environmentally sensitive. When this project was first proposed we understood it was to provide housing for workers. Conflicted when we understood that this generous objective was behind it and now it's removed and now gone from housing workers to a bullet point of helps with housing needs. This is not meeting housing needs, its pure profit by a sophisticated developer. I encourage the Planning Commission to deny or slow down to carefully consider what I consider an enormously



environment impact. If approved should put the worker housing back in so if we are going to impact the wetland its for a salutary reason.

Took a 5 minute break at 7:59 p.m. Reconvened at 8:05

Deb Atiyeh PO Box 1426 Cannon Beach

I agree with everything with what's being said. I oppose development on the property. I don't agree with any development on it. think the city is not against, someone said the city wants to make strip malls and that's not true. I believe the people who made the property must be made hold. I propose the city buys the property to preserve it and keep it in its natural state.

Anita Dueber PO 694 CB

Listening to all opposition wanted to say I support and thank them for the time to come before the Planning Commission to voice their opinions and concerns and I believe you will take all their words into consideration. Forest Lawn is near and dear to the family and possibly one of the places as iconic as Haystack Rock. To see it developed into single family homes would create a character change to Cannon Beach. I hope this development will be slowed or stopped in the form it is being presented. In response to Newton's question was your family home close to the site, Dueber replied the Dueber family had a home for many years on Forest Lawn but sold it decades ago. There was a treehouse in the forested part.

Rosie Dorsey 1603 FR 4955 NW 162<sup>nd</sup> Terrace Portland

I have the property closest to this development. Listening to what everyone said tonight was powerful for me. We bought property in 2004, mom diagnosed with cancer and I ended up with it. I've tried to hold the whole Forest Lawn energy for her. For 17 years I have heard at least 15-20 offers to that property we knew something might appear. But I didn't think a large development or something that would impact the wetlands. Past people who made bids said they weren't able to access Hemlock, there are so many complicated factors on the wetland. We were not able to access our lots from Hemlock. Trying to figure out how our lots were denied access from Hemlock but others may be able to have access. Is my lot or my neighbors accessible to hemlock? There was interest on what my home was going to look like when we purchased and not sure what this development would look like and would like to see more info on what it will look like. I am concerned how my property is protected. I've seen so many reports that said the wetland shouldn't be developed and how will that impact my property if it is. Thank you for your time and we need more time to take this apart and go issue by issue to see if it would work. Newton asked were you aware of the potential of the stormwater extension before you received the notice that yours was illegally draining into the lot? Dorsey replied I will need to look at my papers to be sure. Newton replied we have been asked to leave the record open and I would be curious to know the timing of the notifications to you.

Chair Newton asked is there a staff response?

Adams my recommendation is to continue. I would ask that you guys ask questions that either the applicants or we could answer. I would like more clarification from arborist and applicant that the applicant provide the trees in the plat map that would be removed by the project and the ones that would be saved. Then ask the arborist to give a report showing which ones he might differ. I would like further clarification for all of us. Conditions Tree removal application has to be done by City arborist, which will further clarify for people. I heard it said several times that driveway and building envelopes were not on the plat, but they are. I put as a condition that no further development, no accessory structures as well as fencing in wetland and buffer. Would ask applicant to provide draft conservation easement. These are items I would like to see is leaving open. Adams noted options regarding keeping the record open.

Kerr noted I took a look at state law and city ordinance and couldn't find anything that made it incumbent of the Planning Commission to grant a partition just because it's asked for. It would be difficult to say you couldn't build one home, but as far as granting a partition, if Planning Commission believes it's not in the best interest, I don't see something that says we can't. Kabeiseman replied an application comes in and code says what's allowed and what's not. If the application meets criteria of code there is an obligation to approve. We can't deny it without a reason based on our criteria. Where they do not meet a criterion or criteria so you know they if the presumption is the property can be used to meet the terms of the code. Kerr asked so anyone asks for a partition and if it meets the code we have to grant? Kabeiseman replied let me think about it but that's the underpinning.

Moritz added under 17.48.1-10 Conditional uses, the overall standards we would have to find a demand existing and if we don't find one exists, we haven't met the criteria. Kabeiseman said there is a housing issue, workforce housing, what does the city need. The way the state law defines needed housing is any housing is needed – it doesn't define the type. If it's housing and it is needed you are obligated to only apply clear and objective standards. When you have conditional use standards it's difficult to treat as clear and objective.

Chair Newton asked does the applicant or proponents wish to make additional statements?

Reed Stapleton with DOWL

To speak to what Kabeiseman said we have met the criteria and standards. We put together a thorough application and considered resources for the property and partition. I heard multiple people speak about preserving wetlands. All wetlands are being preserved, there are no wetland impacts. The partition has been carefully designed to ensure that. The comments about Geotech, the Geotech took a look at property and made recommendations. The comments about general policy 15 regarding regulating trees, the city regulated through code 17.70. there is a provision in 17.70.30 saying the retention of trees should be considered, then speak about roads and utilities should be considered. You need road and utility access and standards like that are there because the jurisdiction wants to make sure roads and utilities if divide you are not plowing through the infrastructure. State statutes require clear and objective standards of how to review. On the endangered species comment, there are none. John Van Staveren did a thorough review and there is no federal nexus that would require an environmental impact statement. Robinson added Adams said there could be a covenant regarding further subdividing. We are having no issue with that, there is no intent to do that. Criteria standards have been met, there is no impact, there can be confusion with a wetland overlay zone but there are no impacts to the wetland. 70% of trees will be retained and will seek to retain more once we have more specific site design.

Renee France with DOWL

In terms of where we are procedurally, I heard several requests to leave record open. I didn't hear request for continuation. I agree to leave record open, would request the 7 days new evidence, 7 day rebuttal and request opportunity for final closing argument. Would be in favor of 7,7,7 in lieu of continuation. Adams added I ask also for the further overlay of the plat with the trees you want to keep or remove. Can that be done in the 7-day time period? Robinson replied I think we can take a more cohesive composite of the site, a broader plan of the site.

Newton stated we have a request to leave record open. Kabeiseman added the state law about 197763a, someone can request opportunity to prevent additional evidence arguments or testimony and then it gives give Planning Commission option to leave the record open or continue the hearing. Both people requested to leave the record open. In response to Newton's question what's the different, Kabeiseman replied do

you come back and hear oral again or limit to written material. Kerr noted I heard people wanted a continuance not just a 7,7,7, whether they said it correctly or not.

Motion: Kerr moved to continuance;

Bennett suggested but do a limit on the time for presentation to 5 minutes and new materials.

Kabeiseman proposed amendment to motion maker can make it or accept.

Kerr stated I amended the motion; Bennett seconded.

Kabeiseman noted when limiting new evidence, it is an administrative burden to determine what is considered new and what is not new.

Kerr amended the motion

Motion: Kerr moved to continuance, with a limits of 3 minutes per speaker; Bennett Seconded the motion.

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

Kabeiseman stated the continuance will be to next Planning Commission meeting on July 28th.

Newton asked I am curious about your process on stormwater how do you decide we need to do this. If the burden is on the applicant to show how they are going to handle stormwater. Adams replied we have meetings with them. There is runoff from Forest Lawn and a property in Forest Lawn that drains to an outlet from Forest Lawn and onto their property. Karen La Bonte our Public Works Director is here and can assist. Newton added the process behind how the city decided it was on the city to take action on the storm water vs the applicant. My reading of the wetland overlay it's the applicants to provide the plan, it appears the city took initiative to put the handling of the stormwater on them and what that cost would have been. Adams replied that's for their property. It's their obligation to deal with the stormwater on their property. Stormwater from our right-of-way was infiltrating onto the property. The neighbors is draining as well. Newton asked did the developer approached with the two problems of the site? La Bonte replied I was contacted by the developer that said there are two people depositing the runoff onto private property and asked us to address that. I would notify the homeowner and follow up with a letter. In this case the city was one of the people. Bates replied first off you know that storm water drain is a conditional use which I'm sure was permitted at the time. I believe it's actually required and secondly the requirement is only the code is only imposed on private individuals, not the city. There is no obligation on the city to correct the situation. If the developer wants to do it, its sounds to me their intention is to drain the wetland instead of moving the stormwater connection. La Bonte stated I am not trying to debate the issue I am answering the questions. Bates replied I want to understand why the city is involved into trying to drain the wetland. Karen replied the first contact was the evaluation that was made. As far as how it was to be addressed, as far as cost, like anything else the private party private addresses what's on their private property and city on the right-of-way. We had to camera the drains to see where it was depositing to because walking out there just visually looking at it didn't really tell me for sure if it was or wasn't. Then next once we identified whether it was then it got with Adams to discuss the regulations for wetlands. That is what got that ball started. Then it was a matter of determining how to address. We sent tthe neighbor a letter with the muni code and discuss the options. In response to Moritz 's question how many times a year do you send a letter to a home owner, is this common to speak to a private party or is it abnormal, La Bonte replied it's pretty common. We get more calls in the winter than summer. It peaks in the wet season. We have to issue letters

or make contact to address. Bates asked what's the city's obligation to the code. Adams replied we do what's best for the city and my opinion we were draining into wetland, and it was adding to their wetland area so I decided we can move it further north if possible. If we have a natural system that normally drained into infiltration then we would not be obligated to do that, but we had a storm drain that was feeding that, we had footage and records of that and so we wanted to deal with that the best we could at the time when it was brought to me. The suggestion was moving it north because we were in that discussion with them about possibly turning that over to the North Coast Land Conservancy as a wetland area. And during that approved the development permit because that was it was not a it was not in a wetland buffer and so we just moved it approximately 130 feet north, but then it was appealed during that process.

Newton added one of the big picture problems the issues I have here is if you if it's 100 feet back that roughly represents where the two lots that were also part of this larger parcel are today located. So what's happened is we've had these partitions 1987, 2000 another in 2003 slowly bringing that lot smaller and smaller and smaller to the last partition 2003. Where the house that is draining its storm water they want to have a lot. It's in the record we want to partition this so we can get a lot they're draining their stormwater into a wetland water into wetland we grant the lot. The assumption is that's the wetland and here we are. It's an inch that becomes a mile. We push the wetland further and further from being a wetland. When we mess with things we already messed with. We give a little the next group forgets what we did and we do more then we lose a wetland. We have to look at what's happened in the past and that's my frustration. I didn't see anything that looks like a drainage plan in the application. I need some clarity. I don't see how the water is coming off, where is it going? Adams replied from the development or neighboring development, from Forest Lawn that we were trying to resolve. Newton added anything that has to do with storm drain. Adams replied I need clarification I don't believe its their obligation. Kabeiseman noted we are not prepared to discuss tonight and did not look at it. When the city comes in and handles stormwater it changes things. I would ask that you provide us questions and we will get back to you as we can't give you a comprehensive answer right now.

Bates stated I want to discuss the 50 ft buffer; I don't think the 5 ft is enough. Kerr said that's what the ordinance says. Bates replied it conflicts with state and county law. I want to focus on the geology report, noting concerns about the wetland. There is a lot missing in this report before we could get anywhere close to it. Moritz noted the construction impacts will be huge. We also have to think carefully to what the criteria would be to approve or deny.

Kabeiseman added it's clear that is says if you need housing all housing is housing. Kerr noted has it been litigated, Kabeiseman replied yes they don't differentiate between 2<sup>nd</sup> homes, income levels, etc. Newton noted we have a code that has room for improvement. I would appreciate the geologist to be here to explain items in the report, giving a list of items. A discussion ensued regarding landslides and geologic hazards. Newton added we need to address the landslide before we can approve this. Knop added regarding the the conservation easement, I would like some clarification. Moritz replied I agree there is a lot of unanswered questions. Bates added I want to know what the removal of willows and potential flooding. Kerr added the drainage issues needs to be addressed.

Renee France asked I have a procedural question/clarification on status of the record. You requested a great deal of information, and will it remain open for written submittals, Newton replied yes that's what we said.

9:07 pm took break reconvened at 9:14 pm

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

**THIS IS A LEGISLATIVE MATTER REGARDING:**

**CP 22-01**, 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.

Newton said we had a number of people say they want us to consider to slow down. We heard it quite a bit and they want to comment. Do we want to open it to public comment or just deliberate? Moritz replied in favor of deliberate, they will be a chance to speak at Council and there are more opportunities to speak. Kerr replied I don't feel that way, this is very important and uncomfortable limiting public comment. Bates I am with Kerr, Bennett agreed.

Motion: Kerr moved that we leave this meeting open to public comment with 3 minutes; Bates seconded the motion.

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

Newton said to those here tonight and on zoom we will open our conversation to your comments on the TSP.

Randy Neal via Zoom, PO Box 1092

Neal asked for five mins instead of three. Knop replied 'd like 3 mins as you have given us a lot of information in writing. Bennett agreed Neal said this seems like this is getting pushed forward so the city can check a box to get grant money. it's not a strategic plan. There's a lot of stuff in TSP and doesn't mirror what the community has asked for. Then things that were asked for doesn't have the detail. Neal gave an overview of the input he submitted; a copy is in the record.

Deb Atiyeh

I want to look at from the city perspective. I don't know if I agree with what Neal said. The city hired a 5-star rated company to do the plan. They put a plan into motion. The issue is funding, there is funding available, and I say jump on it go through, they won't move forward on anything without further approval.

Anita Dueber

I agree with all the effort randy put into presentation and speak to the fact that the TSP. I heard Cannon Beach was one of the last cities to implement that's because Cannon Beach doesn't want to urbanize. The committee and council wanted cannon beach to be preserved and protected from what seems to be an urbanization plan. This needs to be thought about before it goes forward. To be told you can't keep living in the past, I've seen the changes. We are stewards and protectors of that beauty and not developers to fundamentally change the character of Cannon Beach.

Newton closed public comment section. We talked last time about having a list of things we didn't want to see and have been approached by people regarding this. I've been thinking about Neal's comment about it being a plan and what does a plan mean. I thought about a letter from Atiyeh about tying parking fees to

affordability. That got me thinking at a higher level how are these pieces marrying together. The TSP marginalized communities who need help from an affordability standpoint. How does that relate to transportation? We don't address that, but maybe we could. If we took a step back and looked at it for more than just a menu item. Is there any reason we need to rush this though; is there a grant or project we need to push this through for? Moritz added it seems to me we would be asking for too much for housing and transportation plan at this plan. This TSP gives us pieces we can talk about and tie them other pieces. Adams is working on the housing plans, we can't solve all the problems with one plan. The way I envision the plan is all its doing is setting out a way for us to continue the conversation. This is to create a framework to take the pieces one by one. It has enough pieces that work. Let's get a plan for a plan in place and drill down on the important pieces and how to tie that into other city's needs. Newton replied I want to do that. The challenge for me in coming to a discussion on any one point. I want to have an idea on where we collectively agree on the theme that we are trying to accomplish. If we had that is would help shape the individual items. If I don't know what I am trying to protect I won't know what I am voting on. A discussion ensued regarding how the TPS connects the comprehensive plan. Bates added give the city something they are excited about, and I haven't heard anyone that is excited about this. We talked about putting language in here about what it is, a plan for a plan, I don't see that language. Adams added if you refer to page 30 it has the goals and objectives. I am thinking what I heard is that you guys may want to make that more visionary, your goals and objectives are the vision. Bates added I looked at the state's parking plan and it was getting cars off the street. Adams replied that is what we are trying to do with a bike/trail plan. The items you say you want to do are in this. Do we want to have a plan in place? We never had one in place, and I keep hearing I see how things have changed and it's not better. But that's because we don't have a plan in place. The first step is to put a plan in place, then we will work on it. Nothing says you can't amend the plan. Kerr added I don't think putting in bike paths will resolve the parking issues. Adams replied no one said that, we have elements within here that are to solve that parking problem. In response to Kerr's question like what, Adams replied striping, parking apps, paid they are listed as separate items and they are steps to take toward it. Each one of part of the continuum but you have to start somewhere. Bates added people don't agree with your proposals. Bennett replied people will never agree with the proposal, a discussion ensued.

A discussion ensued regarding how to move forward with this process. Adams added I and the staff try to do what's best for the city. Kerr replied no one is criticizing staff, we are criticizing you. Newton added part of the process is the conversation we are having tonight. It's a process that feels like we have given it our best shot. Moritz said then I suggest we work through the plan and see what's the sticking point. We are having so much conversation and let's get concrete here. If we start thinking about the language in the plan, we will start seeing where our issues are. Bennett added one thing particularly important I heard over and over is the committee didn't hear us. In my opinion the consultants did a pretty comprehensive outreach. You can't make people answer a questionnaire. What else do we need to know in specifics and what are the alternatives. A discussion ensued reading recommendations discussed last week. Newton said to Moritz's point let's start with the disclaimer language. In response to Knop's question is this what Kabeiseman revised, Adams replied yes. Knop added I think we should add the Parks and Community Services Committee, in both paragraphs. A discussion ensued regarding page 30. Michael Duncan from ODOT provided input.

Motion: Kerr moved to suggest to the Council that they remove the roundabout option from the TSP menu; Moritz seconded the motion.

Vote: Kerr, Newton, Knop, Bates and Moritz voted AYE; Bennett voted NAY. The motion passed.

Motion: Bates moved to incorporate the amended disclaimer language to the TSP; Kerr seconded the motion.

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

Kerr asked why can't we removed scooters, Adams replied the TSP suggests the city adopts scooter and other legislation for these types of things. I don't see harm in keeping it in as it's talking about making the language. I've drafted language that will be presented to council in July, a discussion ensued.

Bates noted I heard someone talk about the sewer trail. People were unhappy with that. Knop replied at the beginning, but they love it now. Kerr added the new trail that is proposed, we could put language in that suggestion to preserve as many trees as possible. Moritz added and make it natural surfaces. A discussion ensued regarding the trail suggestion.

A discussion ensued regarding the couplet /pedestrian plaza. Knop added all of these things will go through the approval process and we won't accept a proposal that we are not in agreement with. Kerr replied but do not know who will be approving the project.

Motion: Kerr moved to amend the bike path section to say that any bike path and trail would give high priority to the protection and preservation of trees in the path right-of-way; Knop seconded the motion.

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

Newton asked what do we want to achieve at our next meeting. We said we wanted to take things off and add and we did that. We are starting to shape a larger idea. Kerr at our next meeting will we have another big packet, Adams replied more than likely. We have the continuation from tonight and possibly two more applications. Kerr noted the TSP is getting the short end with being at the end of the meeting. Adams added would you be up to a work session for just the TSP? Kerr replied that is a great idea. A discussion ensued regarding the date of work session. The Commission selected Wednesday, July 6th at 6pm and discussed the process for the work session. They will start with page 1 and work through.

#### **Authorization to Sign the Appropriate Orders**

Motion: Bennett moved to authorize the Chair to sign the appropriate orders; Knop seconded the motion.

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

#### **INFORMATIONAL ITEMS**

##### **(7) Tree Report**

Mike another positive month.

##### **(8) Ongoing Planning Items**

**(9) Good of the Order**

Kerr reported it has come to my attention by neighbors and constituents with the 600 sq ft house which was subject to Harrison appeal. Planning Commission denied appeal. It appears from the drawings what's happening is different. I want to make sure that we are not chumps in this whole thing. I wrote to Jeff Harrison about it. I am not sure if anyone has gone to look at it. My impression is its not the same. Adams replied they will call for inspections and the building official will come out and inspect. My understanding is they put in a change of plans and if it meets the floor area ration and meets the conditions. Kerr added this was a specific appeal based on plans we all got to look at. They do a change of plans and do something different and if it's not kosher no one sees it until its build. Adams replied the planning zoning and development agreement it meets all those conditions of standards. Kerr added it's like that so called garage with a living loft. Adams added if it meets the building code, we have no control of it. Bates noted there is something we can learn from that. How did we get from the point he proposed a settlement we rejected the appeal, and he changes him mind? We should have put that drawing in the order. Knop asked would that prevent it, Adams replied I would have to defer to Kabeiseman. I've never seen someone not be able to put in change orders. Kabeiseman gave an overview of the building code in this situation, a discussion ensued regarding the plans.

Newton asked what's going on with the living wall, Adams replied we will get a report on it next month.

Newton asked when will we hear back, you visited the shoreline stabilization project, St. Clair replied we should hear back possibly next month, giving an overview.

Newton said I don't think we shouldn't go this late again. Do you want to talk about a we will not go beyond? Commission selected 10:00 pm. Knop added there are times when will have to have work sessions.

**ADJOURNMENT**

The meeting adjourned at 10:57 pm.

  
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City Recorder, Jennifer Barrett



June 23, 2022

Dear CB Planning Commissioners,

We ask you to deny the applicant's request for a 3-lot partition & conditional use permit for a partition in the Wetland Overlay Zone, located at the corner of Forest Lawn Rd. & S. Hemlock St.  
(P # 22-01 & CU # 22-02)

Rather than allowing 3 houses to be built on the property, we ask you to allow just one house to be constructed. We also ask that you make sure that the applicant comply with all standards which have to do with lessening the harmful effects of construction now, rather than waiting until the time of obtaining a permit for the building.

Please consider requesting the applicant to provide a specific site plan indicating precise positions of the intended house, driveway & other relevant elements regarding the large wetland. This would help the Planning Commission & the community to better comprehend & protect the wetland from possible negative effects.

We ask you to make sure that CB Municipal Code (CBMC) 16.04.130 & all related CB Comprehensive Plan (CBCP) policies are carefully followed, as well as the standards in CBMC 17.43, CBMC 17.50, CBMC 17.6 & CBMC 17.70. We also ask that you require the applicant show how he will comply with the standards that apply within these codes, as well as within CBMC 17.80, in the present public conditional use process, rather than during the later building permit process. Doing this in public, rather than only by administrative review, gives the Planning Commission & the community more ability to oversee the protection of this important forested wetland. Thank you

Jan Siebert - Wahrmond & Wes Wahrmond  
P.O. B. 778, Cannon Beach, OR - 97110.