



CITY OF CANNON BEACH

AGENDA

VIRTUAL ATTENDANCE ONLY

In keeping with the Governor's social distancing direction and to minimize the spread of COVID-19, the City of Cannon Beach has issued an [Administrative Order](#), effective immediately, all public access and participation for City Council, Commissions, Boards and Committees meeting will be virtual until further notice. Please visit our website at ci.cannon-beach.or.us for viewing options and how to [submit public comment](#).

Meeting: Planning Commission
Date: **Thursday, January 27, 2022**
Time: **6:00 p.m.**
Location: Council Chambers, City Hall

6:00 CALL TO ORDER

6:01 (1) **Approval of Agenda**

6:02 (2) **Consideration of the Minutes for the Planning Commission Meeting of December 2, 2021**
If the Planning Commission wishes to approve the minutes, an appropriate motion is in order.

(3) **Consideration of the Minutes for the Planning Commission Meeting of December 21, 2021**
If the Planning Commission wishes to approve the minutes, an appropriate motion is in order.

6:05 (4) **Election of Officers**

ACTION ITEMS

6:10 (5) **Remand of AA# 21-01, Jeff & Jennifer Harrison request for an Appeal of an Administrative Decision to approve a building/development permit for M.J. Najimi at 544 N. Laurel Street**

AA 21-01, Remand of the Jeff and Jennifer Harrison appeal of the City's approval to issue a development/building permit for 544 N Laurel Street. The property is located at 544 N Laurel Street (Tax Lot 07000, Map 51019AD), and in a Residential Medium Density (R2) zone. The request will be reviewed pursuant to Municipal Code, Section 17.88.160, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance, conditions of approval of the Cannon Beach Preservation Planned Development Subdivision and approved plat.

6:25 (6) **Public Hearing and Consideration of CU# 21-03, Jacqueline O. Brown request, for a Conditional Use Permit for shoreline stabilization at 116 N. Laurel St.**

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

- 6:35 **(7) Public Hearing and Consideration of CU# 21-04, LBC Trust request, for a Conditional Use Permit for shoreline stabilization at 4664 Logan Ln.**

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

- 6:45 **(8) Public Hearing and Consideration of CU# 21-05, Martin and Maxine Siegel Living Trust request, for a Conditional Use Permit for shoreline stabilization at 3915 Ocean Ave.**

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

- 7:05 **(9) Continuation and Consideration of SR# 21-06, David Vonada request, on behalf of John Henry, for a Setback Reduction of the rear-yard setback requirement for a deck-stairs in conjunction with an addition to an existing residence.**

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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.

INFORMATIONAL ITEMS

- 7:20 **(10) Tree Report**

- (11) Ongoing Planning Items:**

Transportation System Plan: @ www.cannonbeachtsp.com;
Code Audit Update

- (12) Good of the Order**

- 7:30 **(13) ADJOURNMENT**

Please note that agenda items may not be considered in the exact order listed, and all times shown are tentative and approximate. Documents for the record may be submitted prior to the meeting by email, fax, mail, or in person. For questions about the agenda, contact Administrative Assistant, Katie Hillenhagen at Hillenhagen@ci.cannon-beach.or.us or (503) 436-8054. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.

Posted: January 20, 2022

Join Zoom Meeting:

Meeting URL: <https://us02web.zoom.us/j/83508783839?pwd=Z0RIYnJFK2ozRmE2TkRBRUFJNlg0dz09>

Meeting ID: 835 0878 3839

Password: 801463

One Tap Mobile:

+16699006833,,83508783839#,,1#,801463# US (San Jose)

+13462487799,,83508783839#,,1#,801463# US (Houston)

Dial By Your Location:

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 835 0878 3839

Password: 801463

View Our Live Stream:

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Virtual Participation & Public Comment for Meetings:

If you wish to provide public comment as a virtual meeting participant, you must submit it by **noon**, the day of the meeting, to planning@ci.cannon-beach.or.us. All written comments received by the deadline will be distributed to the commission, parties of record and the appropriate staff prior to the start of the meeting. The written comments will be included in the record copy of the meeting.

You may also request to speak virtually during this meeting. You must submit your request to speak by **noon**, the day of the meeting, to planning@ci.cannon-beach.or.us. If you wish to speak to an issue, please provide that information within the 'subject' or 'body' of your text. If it is not directed at a particular issue, Public Comment may be taken at the beginning of the meeting.

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, December 2, 2021

Present: Chair Daryl Johnson and Commissioner Barb Knop in person
Commissioners Charles Bennett, Clay Newton, Lisa Kerr and Joe Bernt via Zoom

Excused:

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

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Kerr, Newton, Knop, Bernt, Bennett and Chair Johnson voted AYE; the motion passed.

(2) Review of Findings for AA# 21-01, Greg Hathaway request, on behalf of Jeff & Jennifer Harrison, for an Appeal of an Administrative Decision to approve a building/development permit.

Johnson asked for amendments to the findings.

Kerr had a question. She said that there is a paragraph explaining the City's position. She doesn't understand why that is in there. She does not see the findings as a place to have that information. She suggested that it just say it was a finished space and did not comply with the FAR and that is it.

Adams said that the first paragraph explains why it is written the way it is, how the gross floor area is calculated. The second paragraph goes into interpretation basement spaces and other things into gross floor area. The third paragraph goes into that this is a new building permit and agrees with the PCs findings on it.

Kerr thought the part referring the staff's interpretation should be taken out.

Kabeiseman pointed out that this is an appeal and said that this section is explaining what the city staff got wrong. He noted that it is hard that information in there.

Kerr was concerned that both sides are laid out in the findings.

Newton noted that that information was in earlier documents.

Kerr said that her experience was that Findings just lay out what the Findings are.

Kabeiseman said that they can include or exclude what they want, but this is an appeal so it is explaining what was decided before.

They decided to strike that sentence from the findings.

Johnson said he did not think there was anything else to discuss.

Newton said that they did not thoroughly discuss the living wall or the HOA in the last meeting.

Kerr said they might have mentioned it in passing. Kerr thought they did not take a position because they were not sure if that was in their providence.

Newton read the section of the findings that spoke to that.

They agreed that what was in the findings was ok.

Kerr said it was a good job on the findings in general.

Newton asked if they would amend the findings if they considered the alternative conditions provided.

Kabeiseman explained that after the meeting an alternative came up. This was considered as a path forward and gave a condition that the house could not be built unless the existing garage on the site was torn down. He said that this is an alternative that the Planning Commission does not have to adopt, it is an option.

Newton asked what would make since considering this.

They discussed the option.

Kerr said she would rather send the Findings on as they are.

Knop agreed.

Motion: Kerr moved to approve the Findings with the change to the first sentence of the second paragraph; Knop seconded the motion.

Vote: Kerr, Newton, Knop, Bennett, Bernt and Chair Johnson voted AYE; the motion passed.

(1) Motion for the Chair to Sign the Orders

Motion: Knop moved to approve the Chair to Sign the orders; Bennett seconded the motion.

Vote: Kerr, Newton, Knop, Patrick, Bennett, Bernt and Chair Johnson voted AYE; the motion passed.

Chair asked if he could sign the orders if this motion wasn't made.

Kabeiseman said that it probably was not necessary since they have already reviewed the Findings.

INFORMATIONAL ITEMS

(4) Good of the Order

Adams introduced Robert St. Clair, the new Planner.

ADJOURNMENT

The meeting adjourned at 6:18 pm.

Administrative Assistant, Katie Hillenhagen

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Tuesday, December 21, 2021

Present: Chair Daryl Johnson and Commissioner Barb Knop in person; Janet Patrick, Charles Bennett, Lisa Kerr and Joe Bernt via Zoom

Excused: Clay Newton

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

CALL TO ORDER

Chair Johnson called the meeting to order at 6:00 p.m.
Johnson thanked Joe Bernt for his service on the committee.

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Kerr, Bennett, Knop, Bernt, Patrick and Chair Johnson voted AYE; the motion passed.

(2) Consideration of the Minutes for the Planning Commission Meeting of November 23, 2021

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

Vote: Kerr, Bennett, Knop, Bernt (with an edit to change since to sense), Patrick and Chair Johnson voted AYE; the motion passed.

(3) Continuation and Consideration of AA# 21-02, Haystack Rock LLC request, for an Appeal of an Administrative Decision to approve a development permit at taxlot 51031AA00600.

Haystack Rock, LLC appeal of the City's administrative decision to approve development permit DP#21-20 for Taxlot 51031AA00600 for stabilization pinning of a geologically hazardous area. The property is a vacant lot located north of Nenana Ave (Tax Lot 00600, Map 51031AA), and is in a Residential Lower Density (RL) zone. The appeal will be reviewed pursuant to Municipal Code, Section 17.92.010, Development Permits, Section 17.62 Grading, Erosion and Sedimentation Control, Section 17.50 Development Requirements for Potential Geologic Hazard Areas and Section 17.88.180, Review Consisting of Additional Evidence or de Novo Review and applicable sections of the zoning ordinance.

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

Adams read his staff report (see staff report in packet for full details). Adams noted that he included a tentative motion for approval with a conditional of approval stating that they could not attach to the stability beam west of the Oceanfront Setback. He noted that he does not think this is necessary because you cannot build anything above 30 inches in the Oceanfront Setback, but it is there if the Commission wants to move forward with that. Adams deferred to Kabeiseman concerning the recent LUBA decision and how it would affect this case.

Kabeiseman reported that last Wednesday LUBA affirmed the City's decision in the Robert's appeal case, affirming the Oceanfront Setback. He noted that there is a chance to appeal to the Supreme Court with a 35-day appeal period, so we will know more in a month.

Kerr thanked Kabeiseman for his work on the case.

Chair Johnson called for public testimony.

Chair Johnson 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 Johnson noted that he will give the appellant and the applicant 10 minutes each to speak.

Appellant, Will Rassmussen on behalf of Haystack Rock, LLC. Rassmussen said that the stability beam is part and parcel of the big house application, which was denied, and should be denied here. He added that if they decide to approve it, they should attach strong conditions of approval, such as a requirement that nothing be attached in the Oceanfront Setback. Rassmussen pointed out that the stability beam is in the Oceanfront Setback where the larger house that has been denied was planned to be built. He also referenced an Astorian article in which Stan Roberts stated that he intends to build a large house and not a smaller house. Rassmussen argued that if it were really a stability beam to stabilize the hillside it would not look the same as the application that was submitted a year ago for a stability beam to go with the larger house, which has been denied.

Chair Johnson called for a presentation by the applicant.

Fred Wilson, on behalf of Stan and Rebecca Roberts, PO Box 159 Lake Oswego OR, 97034. Wilson noted that in light of the appeal decision from LUBA it is not looking good to build the 2,700SF house. He

explained that they filed the stability beam separately from the application materials for the smaller house because they expect opposition to the 1200SF house, even though it is within the Oceanfront Setback. Wilson said that the beam needs to be there no matter what they build on the lot. It will be needed for the 1200SF house as well. It will also keep the lot stable for any future development if they do not build the smaller house. Wilson said that this application is only about the stability beam. He noted that all required documents have been submitted (including Geotech Reports), and the application meets all requirements. Wilson said that having or not having the stability beam has nothing to do with whether or not they can build the larger house. Approving the stability beam would not give them any advantage in getting the 2,700SF house built. Wilson also spoke to the Astorian article and said that someone being frustrated with the City's decision has nothing to do with the approval criteria. He said that they were ok with conditions of approval related to access to do the work. He agreed with Adams that putting having a condition of approval to not attach to the stability beam is not necessary. He also said that there is no contrary evidence that they did not meet the applicable approval criteria.

Kerr asked if they were going to appeal further.

Wilson said that he did not know the answer to that.

Kerr said that they could potentially win and there is no way to tell now.

Wilson said that that is a fight to have somewhere else.

Kerr said that they are connected.

Wilson said that in the best-case scenario it would be used for the larger house, but that is not its only function.

Kerr asked for clarification if the stability beam was in the Oceanfront Setback.

Wilson confirmed that it was.

Bernt thought that the stability beam discussion was premature. He couldn't see why they were talking about it a fourth time. He said that they turned the stability beam proposal down in the past and that decision has been upheld. Bernt said that it has already been turned down.

Wilson said that it was the house that was turned down, not the stability beam. He noted that there is nothing in the City's code that prevents a stability beam from being in the Oceanfront Setback.

Wilson reiterated that the stability beam is not just part of the house but provides stability on the lot in general.

There was no further response from staff.

Chair Johnson closed the hearing and moved to consideration.

Kerr said that there is nothing in the code that speaks to whether or not an application could be applied to piecemeal. She argued that as a matter of practice they should be applied for together. Kerr said that there is no evidence that they want to use the stability beam for anything else than to build the bigger house. She said that the article shows that they do not care about the community. She also said that she thought that the original drawings of the driveway were a middle finger to the City. She thought they should wait to approve the stability beam or anything else until the dust settles and they have all the pieces together. Then Planning can make a comprehensive decision.

Johnson said that he agreed with Kerr. He thought there was a strong likelihood that the LUBA decision would be appealed. He thought they should not make a decision in the middle of the fight.

Patrick agreed.

Motion: Kerr moved to deny the application for the stability beam; Patrick seconded the motion.

Vote: Kerr, Bennett, Knop, Bernt, Patrick and Chair Johnson voted AYE. The motion passed.

(4) Continuation and Consideration of SR 21-06, David Vonada request, on behalf of John Henry, of 1688 S. Hemlock, for a Setback Reduction of the rear-yard setback requirement for a deck-stairs in conjunction with an addition to an existing residence.

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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 Johnson asked if any Commissioner had any conflict of interest. There were none. Chair Johnson asked if any Commissioner had personal bias to declare. There were none. Chair Johnson asked if any commissioner had any ex parte contacts to declare. There were none. The commissioners declared their site visits.

St. Clair read the staff report (see staff report in packet for full details). St. Clair noted that this is simply a continuation and no significant comment had been received since the last meeting.

The Commission discussed the email that was sent by the applicant since the last meeting.

Kerr noted that they asked for more information about why there are no alternatives to the proposed work.

Patrick said that in the email they explained that the staircase would be an exit in case of a fire from the second story of the house.

Orloff explained that this is their option for additional egress in addition to increased access from the second floor. He noted that they submitted drawings showing what they propose to do.

Kerr asked why they did not send something out in writing addressing the criteria.

Orloff said that they are doing it in person in the meeting and have provided drawings rather than a verbal explanation.

Johnson brought up the option of a folding ladder.

Orloff said that they are aware that there are other options, but this is what the client wanted to pursue.

Kerr thought that they should have provided a more complete application.

They discussed oral vs diagramed presentations.

Bernt said that they are making assertions but not tying the assertions to the process that Kerr is discussing.

They discussed the timing of the letter coming in from the applicant.

Chair Johnson called for public testimony.

Chair Johnson 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 Johnson asked if there was anything further from the applicant. There was not.

Chair Johnson called for proponents of the request. There was none.

Chair Johnson called for opponents of the request. There were none.

There was no further response from staff.

Chair Johnson Closed the hearing.

Patrick thought there was insufficient information in the application.

Kerr agreed.

Knob proposed they continue the application.

Kabeiseman brought up the 120-day rule. He suggested that they ask the applicant if they prefer a continuance if they are close to the 120 days.

Bernt said that it is not the job of the Commission to say that they did not do it well enough so they should get another chance to convince them again.

Kerr said that she agreed with him, but she thought something was amiss, maybe someone got ill. She was willing to give them the benefit of the doubt.

Adams said he agreed with Kabeiseman's guidance. He suggested they ask the applicant if they would like a continuance.

Orloff said that they would request an extension if possible.

Kerr asked if he had authority to do that.

Orloff said that he did. He said they would file a formal request via email in the next couple of days.

(5) Public Hearing and Consideration of CU# 21-04, LBC Trust request, for a Conditional Use Permit for shoreline stabilization at 4664 Logan Ln.

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

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

St. Clair noted that there was a request for a continuance.

They discussed the request for a continuation from the Friends of the Dunes and it was noted that the PC must grant the first continuance. Kabeiseman suggested that they hold the hearing that was noticed and then continue to the next meeting.

St. Clair read the staff report (see staff report in packet for full details).

Chair Johnson called for public testimony.

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

Mike Morgan, on behalf of The LBC Trust, PO Box 132 Cannon Beach. Morgan said that the applicant, the Planning Department, and Oregon State Parks met at this property, and it was concluded that riprap was not an option at this time. The representative from State Parks suggested that a cobble berm would be a more appropriate way to try to stabilize the dune. He said that it is quite a steep dune face. He discussed the design for the erosion control that would stabilize the dune and prevent people from using it as a slide. He said that there has been a lot of erosion and this area has been hit fairly hard. He said that in his view it is a very natural way to address the problem. He noted that this type of erosion control has been suggested by ORCA for other areas in Cannon Beach. It is not obtrusive and once the willows are established, like the property to the immediate north, it grows in a dense manner.

Johnson said that there are potentially three properties that have similar erosion problems. He asked if there was any discussion about including the surrounding properties.

Morgan said that he and Mike McEwan have not been contacted by surrounding property owners. He is aware of one other property owner, to the north, that is interested. He said that the property owner to the south has a riprap that is already there. Morgan noted that if you have riprap that has been there you can repair it with a State Permit.

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

Chair Johnson called for opponents of the request. There were none.

Roberts noted that staff recommended approval and listed the suggested conditions of approval (see staff report for details).

Morgan noted that there is no grading of sand in this application. The stones will be placed at the edge of the sand and sand will be distributed on top of the cobbles to provide a substrate for stabilizing vegetation.

Chair Johnson stated that they must grant the request for continuance so this will be continued to next month's agenda.

Authorization to Sign the Appropriate Orders

Motion: Bernt moved to authorize the Chair to sign the appropriate orders; Patrick seconded the motion.

Vote: Kerr, Knop, Bernt, Patrick, Bennett and Chair Johnson voted AYE; the motion passed

INFORMATIONAL ITEMS

(8) Tree Report

No comments.

(9) Ongoing Planning Items

Kerr asked if Adams was familiar with any view ordinances in other areas. She said that right now there is nothing in the code to stop someone from building something that blocks someone else's view.

Adams noted that the City has that included in standards for things like setback reductions.

Kerr said that she meant for regular building permits for a house that might block views but not need a variance or setback reduction.

Adams said that if someone were to further subdivide land or something like that yes, but not for someone to build without that, he has not seen that. Adams said that he could look into it.

Kabeiseman said that he has seen them, but they tend not to work very well. He noted that what he has seen that works well is view corridors.

Kerr said that she noticed a situation recently where a new house was built that blocked several people's views.

Kabeiseman said that that is why lots get more expensive the closer you get to the ocean.

Bernt said that there are communities that worry about trees and there is the equivalent for ocean views. He thought they could be pretty controversial, like tree issues in Lake Oswego.

Adams said that the Council had their retreat. The code audit will come back in the new year. They are considering a second batch of changes before the full code audit. Council also asked Adams to look into affordable housing solutions. He will hopefully be bringing that before them in February or March.

Patrick asked about the parking in front of the pot shop across from Bruce's Candy Kitchen. She was upset that it is all paved and there is no landscape.

Adams said that this is a perfect example of what their ordinance allows. He said that the owners were denied a parking variance by the Planning Commission. As a result, they had to put that parking on site. He noted that they could have used something impervious, but they are not required to. Adams said that people think that the code we have leads to the little cottages and village feel that

Cannon Beach has. He said that this is not the case, most of those structures are non-conforming. When people come and have to build to code, what happened at the pot shop is what you get.

Kerr asked if the parking was approved by DRB.

Adams said that it was.

Adams clarified that they had no option but to put the parking there. He said that he is also dissatisfied with the outcome, but that is what the ordinance requires. Adams said that he hopes this motivates people to stay involved with the code audit process.

Kerr and Patrick were both very unhappy with the results.

Adams thanked Bernt for his service and wished everyone a happy holiday.

(10) Good of the Order

ADJOURNMENT

The meeting adjourned at 7:26 pm.

Administrative Assistant, Katie Hillenhagen



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND REMAND OF **AA 21-01**, JEFF AND JENNIFER HARRISON ADMINISTRATIVE APPEAL OF THE CITY'S APPROVAL OF A BUILDING/DEVELOPMENT PERMIT FOR 544 NORTH LAUREL STREET. THE PROPERTY IS LOCATED AT 544 N. LAUREL STREET (TAX LOT 07000, MAP 51019AD), AND IN A RESIDENTIAL MEDIUM DENSITY (R2) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, SECTION 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE, CONDITIONS OF APPROVAL OF THE CANNON BEACH PRESERVATION PLANNED DEVELOPMENT SUBDIVISION AND APPROVED PLAT.

Agenda Date: January 27, 2022

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

Public notice for this January 5th, 2022 Public Hearing is as follows:

A. Notice was mailed and posted at area Post Offices on January 5th, 2021;

DISCLOSURES

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

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 20, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

A-1 [The Administrative Appeal AA 21-01 Record can be found at the City's Website \(AA# 21-01 Hathaway Administrative Appeal on behalf of Jeff & Jennifer Harrison, of a Building/Development Permit for the Najimi Residence at 544 N. Laurel St. | City of Cannon Beach Oregon \(cannon-beach.or.us\)\)](#)

A-2 City of Cannon Beach Planning Commission Findings AA 21-01, Signed Order, December 2, 2021;

A-3 Settlement Agreement and Mutual Release of Claims, Signed December 3, 2021;

A-4 Amendment to Access Easement, Recorded December 22, 2021;

A-5 City of Cannon Beach Demolition Permit, Issued January 3, 2022;

"B" Exhibits – Agency Comments

None received as of this writing;

“C” Exhibits – Cannon Beach Supplements

C-1 Not Applicable

“D” Exhibits – Public Comment

D-1 Dean Alterman ‘Notice of Appeal of Planning Commission’ application, on behalf of M.J. Najimi, dated and received, December 10, 2021;

D-2 Dean Alterman, Appeal of MJ Najimi APP 21-03 memorandum, on behalf of M.J. Najimi, dated and received, January 4, 2022;

D-3 Dean Alterman, Appeal of MJ Najimi APP 21-03 memorandum, on behalf of M.J. Najimi, dated and received, January 18, 2022;

SUMMARY & BACKGROUND

The City of Cannon Beach Planning Commission (PC) rendered a decision to reverse the Administrative Decision to approve a Building/Development Permit (BP#164-21-00179) for the Najimi Residence, at 544 N. Laurel, Tax Lot 7000, Map 51019AD, of the Cannon Beach Preservation Planned Development Subdivision, at the request of Jeffrey Harrison, of 539 N. Laurel St., at its November 23rd, 2021 regularly scheduled Planning Commission meeting and approved the findings at special called meeting of December 2, 2021. The PC’s Findings are attached as A-2.

Mr. Dean N. Alterman, on behalf of Mr. M.J. Najimi, requested a review of the decision, in an application dated December 10th and received December 13, 2020, within the 14 consecutive calendars appeal period, from the date the final order was signed. The City Council is held a Scope of Review meeting to discuss the matter, as a non-public hearing item, according to Section 17.88.160 of the Cannon Beach Municipal Code (CBMC).

Under the guidance of CBMC 17.88.140 & 150, the City Council remanded the matter to the Planning Commission for additional consideration, limited in scope, to the submission of new evidence regarding the settlement agreement and resolution of the Harding garage matter. Mr. Alternan has provided the Settlement Agreement (A-3) and the Amendment to the Access Easement (A-4) for the Planning Commission’s consideration. The Harding’s application for the demolition permit for the garage on the Najimi property has also been included for review.

DISCUSSION

As the appellant states, the removal of the Harding’s garage resolves both of the grounds on which the Planning Commission relied when it granted the Harrison’s appeal. Staff would agree with Mr. Alterman’s suggested condition of approval to ensure the removal of the accessory structure:

1. No final inspection and approval for occupancy shall be issued for the house until the demolition of the existing garage on Lot 1 is substantially complete.

APPLICABLE PROCEDURE

17.88.180 Review consisting of additional evidence or de novo review.

A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:

1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or

2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and

3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Sections 17.88.010 through 17.88.100.

C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.084))

17.88.190 Review body decisions.

A. Upon review, the planning commission or city council may affirm, reverse or modify in whole or part, a determination or requirement of the decision that is under review. When the planning commission modifies or renders a decision that reverses an administrative decision, the planning commission shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.88.110. When the city council modifies or renders a decision that reverses a decision of the design review board or the planning commission, the city council shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.88.110. When the city council elects to remand the matter back to the design review board or the planning commission for further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

DECISION AND CONDITIONS

If the Planning Commission wishes to *affirm* the previous reversal of the Administrative decision:

MOTION: Having considered the evidence in the record, I move to ***affirm*** the administrative decision to approve Building Permit (BP# 164-21-000179-DWL), based upon the Alterman application, on behalf of M.J. Najimi, for an appeal of the Planning Commission's reversal of an administrative decision, brought forward by Greg Hathaway, on behalf of Jeff & Jennifer Harrison, application **AA# 21-01**, based on the newly submitted materials in the record, as discussed (subject to the following conditions):

1. No final inspection and approval for occupancy shall be issued for the house until the demolition of the existing garage on Lot 1 is substantially complete.

If the Planning Commission wishes to *reverse* the previous reversal of the Administrative decision:

MOTION: Having considered the evidence in the record, I move to ***reverse*** the administrative decision to approve Building Permit (BP# 164-21-000179-DWL) and deny the Alterman application, on behalf of M.J. Najimi, for an appeal of the Planning Commission's reversal of an administrative decision, brought forward by Greg Hathaway, on behalf of Jeff & Jennifer Harrison, application **AA# 21-01**, based on the newly submitted materials in the record, as discussed.

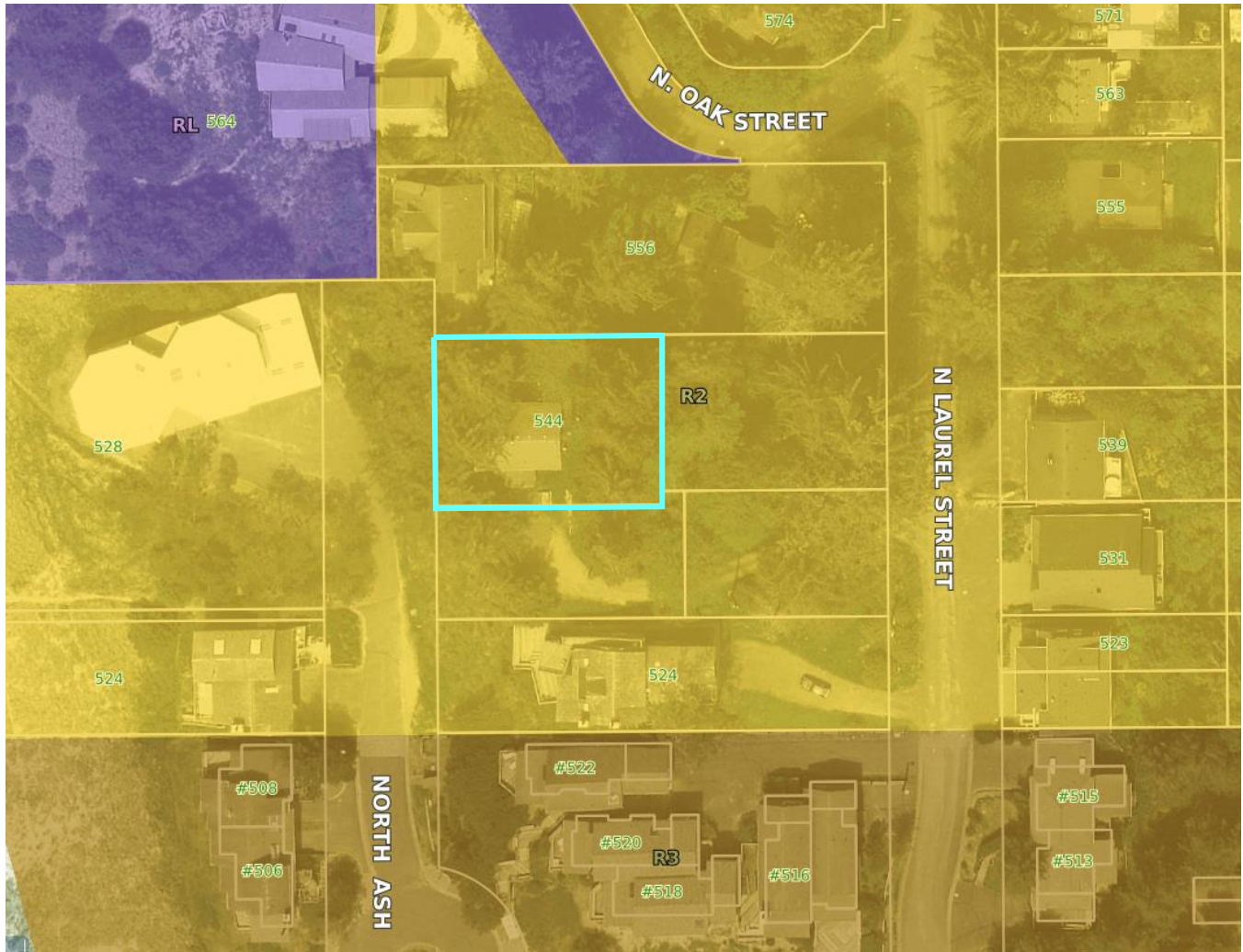
If the Planning Commission wishes to *modify in whole or part* the previous reversal of the Administrative decision:

MOTION: Having considered the evidence in the record, I move to ***modify in whole or part*** the administrative decision to approve Building Permit (BP# 164-21-000179-DWL), based upon the Alterman application, on behalf of M.J. Najimi, for an appeal of the Planning Commission's reversal of an administrative decision, brought

forward by Greg Hathaway, on behalf of Jeff & Jennifer Harrison, application **AA# 21-01**, based on the newly submitted materials in the record, (subject to the following conditions):

1. No final inspection and approval for occupancy shall be issued for the house until the demolition of the existing garage on Lot 1 is substantially complete.

SITE



Site Location Map



Street View, looking west, from the driveway easement



Cannon Beach Planning Commission

Findings of Fact and Conclusions of Law

PUBLIC HEARING AND CONSIDERATION OF **AA 21-01**, JEFF AND JENNIFER HARRISON ADMINISTRATIVE APPEAL OF THE CITY'S APPROVAL OF A BUILDING/DEVELOPMENT PERMIT FOR 544 NORTH LAUREL STREET. THE PROPERTY IS LOCATED AT 544 N. LAUREL STREET (TAX LOT 07000, MAP 51019AD), AND IN A RESIDENTIAL MEDIUM DENSITY (R2) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, SECTION 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE, CONDITIONS OF APPROVAL OF THE CANNON BEACH PRESERVATION PLANNED DEVELOPMENT SUBDIVISION AND APPROVED PLAT.

Agenda Date: October 28, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

Public notice for this October 28th, 2021, Public Hearing is as follows:

A. Notice was mailed and posted at area Post Offices on October 6th, 2021;

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 20, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

A-1A Administrative Appeal Application, dated August 18, 2021, including Hathaway letter of appeal, on behalf of Jeff and Jennifer Harrison, dated August 18, 2021;

A-1B Appeal of Building Permit No. 164-21-00179 (544 N. Laurel Street) Letter, Jeff & Jennifer Harrison, dated October 20, 2021.

A-2 EXHIBIT 01, Harrison Submittal: Harrison email correspondence with Bruce St. Denis, City Manager, copied to Councilor Risley, blind-copied to Commissioners Bernt and Kerr, dated September 21, 2021;

A-3 EXHIBIT 02, Harrison Submittal: FAR Worksheet, correction dated July 15, 2021;

A-4 EXHIBIT 03, Harrison Submittal: Adams email correspondence with David Vonada, Tolovana Architects, dated July 9, 2021;

A-5 EXHIBIT 04, Harrison Submittal: Photo of Harding's residence and accessory structures; Clatsop MLS 2021

- A-6** EXHIBIT 05, Harrison Submittal: Photo of interior of Harding's accessory structure; Clatsop MLS 2021
- A-7** EXHIBIT 06, Harrison Submittal: Photo of interior of Harding's accessory structure; Clatsop MLS 2021
- A-8** EXHIBIT 07, Harrison Submittal: Photo of interior of Harding's accessory structure; Clatsop MLS 2021
- A-9** EXHIBIT 08, Harrison Submittal: Photo of interior of Harding's accessory structure; Clatsop MLS 2021
- A-10** EXHIBIT 09, Harrison Submittal: Applicant's transcript from January 14, 2020 City Council Work Session discussion re: Harding 'garage' on Lot 1 of the Nicholson PUD.
- A-11** EXHIBIT 10, Harrison Submittal: Applicant's transcript from October 23, 2020 Planning Commission, first appeal of administrative decision to approve Najimi building on Lot 1 of Nicholson PUD.
- A-12** EXHIBIT 11, Harrison Submittal: Applicant's transcript of December 1, 2020 City Council discussion, appeal of Najimi building permit, Lot 1, Nicholson PUD
- A-13** EXHIBIT 12, Harrison Submittal: Vasquez Yard & Tree Work Inc. Invoice for Living Wall landscaping work, dated September 11, 2021;
- A-14** EXHIBIT 13, Harrison Submittal: Harrison email correspondence with Adams and Kabeiseman, dated May 7, 2021;
- A-15** EXHIBIT 14, Harrison Submittal: Applicant's Site Plan analysis;
- A-16** EXHIBIT 15, Harrison Submittal: Applicant's transcript of March 1, 2016 City Council discussion of 'Living Wall', Final Approval Hearing, Nicholson PUD;
- A-17** EXHIBIT 16, Harrison Submittal: Applicant's November 26, 2019 Planning Commission, Good of the Order, discussion re: incompatibility between Nicholson PUD Shared Access Maintenance Agreement (which includes private space) and the lack of HOA based on promise of no private space.
- A-18** EXHIBIT 17, Harrison Submittal: email re: including existing loft in FAR calc.;
- A-19** EXHIBIT 18, Harrison Submittal: 2nd floor of building plans, Harding garage/loft/studio;
- A-20** Harrison Prepared Statement for Oct. 28 Planning Commission Meeting;
- A-21** Written Argument & Proposed Findings & Conclusions of Law, dated Nov. 4, 2021;
- A-22** Harrison response to comments at Oct. 28 Planning Commission Meeting, dated Nov. 4, 2021;
- A-23** Harrison response to November 4 comments, dated November 11, 2021;
- A-24** Harrison letter to PC, regarding the living wall, dated June 25, 2020;
- A-25** Harrison prepared statement to City Council regarding the living wall, dated June 5, 2018;
- A-26** Proposed Revised findings of Fact and Conclusions of Law, Greg Hathaway, dated November 11, 2021;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1** Cannon Beach Preservation Planned Development Subdivision Conditions of Approval,, from LUBA Record 2016-033;
- C-2** Cannon Beach Preservation Planned Development Subdivision Plat, Recorded November 21, 2016,, Recorded November 21, 2016;
- C-3** Memo, Staff Produced and dated January 8, 2020;

- C-4 Building Permit #19-1084, with Plan Attachments, excluding Structural Calculations; issued August 5, 2020;
- C-5 House Plans for Najimi Residence, by Tolovna Architects, dated June 9, 2020; with Attachments;
- C-6 Outdoor Living Area Map; Staff produced, undated;
- C-7 Outdoor Living Area KPFF Calculations; Staff produced, undated;
- C-8 Outdoor Living Area Staff Calculations; Staff produced, undated;
- C-9 (Common Open Space and Common Access Easement) Shared Access and Maintenance Easement, Recorded November 21, 2016;
- C-10 Grant of and Agreement with Respect to Easements, Clatsop County Recorded Document# 201401763; March 28, 2014;
- C-11 Amendment to Grant of and Agreement with Respect to Easements, Clatsop County Recorded Document# 201404937; August 6, 2014;
- C-12 NA
- C-13 Staff Report Addendum, dated October 22, 2020;
- C-14 Cannon Beach Planning Commission Order, Findings of Fact and Conclusions of Law, signed October 22, 2020;
- C-15 Letter of Appeal, Dean Alterman, Alterman Law Group, LLC, on behalf of M. J. Najimi, dated and received November 3, 2020; and Application;
- C-16 Minutes from the September 24, 2020 Cannon Beach Planning Commission Meeting;
- C-17 Minutes from the October 22, 2020 Cannon Beach Planning Commission Meeting;
- C-18 Scope of Review Staff Report, November 10, 2020;
- C-19 Minutes from the November 10, 2020 Cannon Beach City Council Meeting;
- C-20 Minutes from the December 1, 2020 Cannon Beach City Council Meeting;
- C-21 Cannon Beach City Council Findings of Fact & Decision, December 8, 2020;
- C-22 Minutes from the December 8, 2020 Cannon Beach City Council Meeting;
- C-23 Cannon Beach City Council Revised Findings of Fact & Decision, February 2, 2021;
- C-24 Minutes from the February 2, 2021 Cannon Beach City Council Meeting;
- C-25 Land Use Board of Appeals (LUBA No. 2020-118) Final Opinion and Order, June 21, 2021;
- C-26 Second Najimi Building Permit, BP# 164-21-000179-DWL, issued August 18, 2020;
- C-27 Staff Report Addendum (New materials received prior to Close of Business, November 4, 2021);
- C-28 Staff Report Addendum (November 12, 2021);

“D” Exhibits – Public Comment

- D-1 **provided in October 28th packet**
- D-2 Judy & Jim Morton, Email correspondence, dated Oct. 26, 2021;
- D-3 Rex & Diane Amos, Email correspondence, dated Oct. 27, 2021;
- D-4 Dale & Linda Hintz, Email correspondence, dated Oct. 27, 2021;
- D-5 Tommy-Huntington, Email correspondence, dated Oct. 27, 2021;
- D-6 Phil Morton, Email correspondence, dated Oct. 28, 2021;
- D-7 Kent Suter, Email correspondence, dated Oct. 27, 2021;
- D-8 Betty Gearen, Email correspondence, dated Nov. 3, 2021;
- D-9 Darrell Clukey & Susan Glarum, Email correspondence, dated Nov. 3, 2021;
- D-10 Dean Alterman, Email correspondence, dated Nov. 4, 2021;

APPLICABLE PROCEDURE

17.88.160 Scope of review.

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

17.88.180 Review consisting of additional evidence or de novo review.

A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:

1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Sections 17.88.010 through 17.88.100.

C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.084))

SUMMARY OF APPEAL ISSUES AND ARGUMENT

Petitioners appealed the City's issuance of Building Permit No. 164- 21-000179-DWL for property located at 544 N. Laurel Street owned by Mr. Najimi and located in the Cannon Beach Preservation subdivision, which was approved as a planned unit development, hereinafter referred to as the "Nicholson PUD." Petitioners reside across the street from Mr. Najimi's property. As presented in Petitioners' Notice of Appeal ("Appeal") and at the October 28th hearing, and as described below, Building Permit No. 164- 21-000179-DWL ("Building Permit") violates the conditions of approval of the Nicholson PUD. As a result, the Petitioners' argue in their Appeal that the Building Permit must be revoked. There are three overriding principles that govern the Planning Commissions' review of Petitioners' Appeal:

(1) The Planning Commission (PC) is not precluded from considering Petitioners' Appeal of the Building Permit notwithstanding the City's prior review in another case involving the same property. It is a new building permit application, a new review and issuance of a building permit by the City, and a new Appeal by Petitioners. The City's Code does not preclude the PC's consideration of the Appeal. As a result, the PC is legally authorized to consider the Appeal and render a decision.

(2) The Land Use Board of Appeals ("LUBA") decision in *Najimi v. City of Cannon Beach* (LUBA No. 2020-118) does not preclude the Planning Commission from considering the new application and subsequent Appeal. LUBA did caution the City in its decision that it could not apply PUD standards to any subsequent building permit request from Mr. Najimi. Petitioners agree with LUBA's ruling that the Planning Commission cannot apply PUD standards in considering their Appeal. However, Petitioners are not

requesting the Planning Commission to apply PUD standards in this Appeal, but instead, requesting the Commission to determine whether the issued Building Permit complies with the Conditions of Approval that were part of the approval of the Nicholson PUD. There is a significant legal difference between the City applying PUD standards in its review of a building permit request as opposed to determining whether a building permit request complies with City imposed conditions of approval applicable that resulted from the approval of the PUD. As a result, the Planning Commission is not precluded from determining whether the issued Building Permit complies with any PUD conditions of approval.

(3) City Staff and the Planning Commission are legally obligated under the City's Code to ensure that any applicable City Code provisions and applicable conditions of approval are met when issuing a building permit. CBMC 17.92.010 C.1. Under the City's Code, the issuance of a building permit also constitutes the issuance of a development permit for property. As a result, since this is a new building permit request, the City has a legal obligation to ensure compliance with all applicable City Code provisions and any applicable conditions of approval.

FINDING OF FACT

1. The issued Building Permit violates the City's FAR requirements in the R-2 Zoning District.

The City's maximum Floor Area Ratio ("FAR") in the R-2 Zone is 60%. FAR refers to the intensity of development on a parcel of property in relation to the size of the parcel. FAR is important to the City of Cannon Beach to ensure that parcels are not "over-developed". The City is required to count the proposed Gross Floor Area as that term is defined at CBMC 17.04.283. The counting of Gross Floor Area on Mr. Najimi's property is unusual in this case since there is a pre-existing garage owned by the applicant's neighbor pursuant to an easement. Although not part of the proposed structure, it is a structure on the lot and it must be accounted for in computing FAR—even though not owned or used by Mr. Najimi. In this instance, City Staff did not count the finished loft area (which contains 210 sq. ft. of floor space) because Staff determined that the finished loft was not habitable.

The Planning Commission finds that the petitioner's pictorial Exhibits A5 through A9, demonstrating the Harding's loft area is 'finished' and, therefore, does not qualify as an "attic". As a result, the Planning Commission finds that Staff should have counted the Gross Floor Area of the finished loft area and did not. The total counted Gross Floor Area should have been 4,594 sq. ft. and not 4,384 sq. ft. (as counted by City Staff), resulting in an FAR lot coverage of 61.25% violating the 60% maximum FAR specified in CBMC 17.14.040(D).

The Planning Commission rejects Mr. Alterman's position that the Planning Commission is not authorized to fully review Mr. Najimi's current Building Permit application. The Planning Commission finds that it is not precluded from considering Petitioners' Appeal of the Building Permit, notwithstanding the City's prior review in another case involving the same property. It is a new building permit application, a new review and issuance of a building permit by the City, and a new Appeal by Petitioners. Therefore, the Planning Commission concludes that the issued Building Permit violates the City's FAR requirements in the R-2 Zoning District. Further, the Planning Commission concludes that neither the City's Code nor LUBA's decision in *Najimi v. City of Cannon Beach* (LUBA No. 2020-118) precludes the Planning Commission from considering the Harrison's Appeal.

Based on the foregoing, the Planning Commission finds that the City's FAR worksheet calculation used to approve the Building Permit is in error.

2. The issued Building Permit unlawfully allows a second garage on Mr. Najimi's property in violation of PUD Condition No. 16 that limits his property to one garage.

As noted in the introduction above, the City is required to ensure that the issued Building Permit complies with all applicable conditions of approval for the Nicholson PUD. The PC finds that Nicholson PUD Condition No. 16 limits Mr. Najimi's parcel to one garage: "Should any lot contain a garage or carport, it shall be no larger than a two-story garage.... if the garage is detached, then the garage may not include a second story of livable space." (Emphasis added). The Planning Commission has the authority to interpret PUD Condition No. 16 in addressing this Appeal issue. As stated in Petitioners' Appeal, all references to a garage in PUD Condition No. 16 are unambiguously singular limiting each Nicholson PUD lot to only one garage. As a result, since Mr. Najimi's lot already contains the Harding's two-story garage, his proposed attached garage violates PUD Condition No. 16. The Planning Commission notes that, any interpretation that would allow multiple garages would be contrary to the intent in PUD condition of approval 16, as a property owner could erect multiple garages that would far exceed the 2-car limit embedded in the condition.

Based on the foregoing, the Planning Commission finds that the application does not meet PUD Condition No. 16 and determines that any Nicholson PUD lot is limited to one garage.

The Planning Commission rejects Mr. Alterman's position that Condition No. 16 does not limit the Najimi lot to one garage. The Planning Commission finds it has the authority to interpret Condition No. 16 and interprets Condition No. 16 as limiting the Najimi lot to one garage. The Planning Commission further finds that its interpretation does not constitute a "new" condition of approval but simply constitutes an interpretation of existing Condition No. 16. The Planning Commission also rejects Mr. Alterman's position that the City Council previously determined that Condition No. 16 does not limit the Najimi lot to one garage. The Planning Commission finds that, although the City Council may have discussed Condition No. 16 in a prior proceeding [see Exhibit A-12], the City Council never made a formal finding interpreting Condition No. 16. Therefore, the Planning Commission concludes that the issued Building Permit unlawfully allows a second garage on Mr. Najimi's lot in violation of PUD Condition No. 16.

3. The Living Wall.

Third, Appellants argue that the condition of the "living wall" installed with the original PUD requires denial of this building permit:

"The PUD is in violation of Approval Condition #17 regarding the Living Wall. The City wrongfully approved the Building Permit without requiring that all PUD conditions of approval be satisfied; or that the Building Permit be conditioned on compliance with the PUD Conditions of Approval."

Condition of approval #17 of the PUD approval provides as follows:

"17. Before permits for the driveway retaining wall are approved the applicant shall provide to the City an executed contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and shall provide a timeline for the establishment of plantings on the wall. If plants are not successfully established within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met."
(Exhibit C-1, p. 17)

That condition addresses the installation of the living wall and requires a contract with a landscape professional. To the extent that the planting is not successful, it authorizes the City to "take any

necessary enforcement actions.” As noted above, the review of this building permit is limited to CBMC Title 15, and the applicable parts of CBMC Title 17, as well as the applicable parts of the PUD approval. None of those provisions authorize the City to refuse to issue a building permit on this basis. The Planning Commission does not find the appellants argument persuasive and finds the City may take “enforcement action” under its code, but that does not extend to allowing it to refuse to issue a building permit that otherwise meets the requirements of its code and the PUD.

4. The Homeowners Association.

Fourth, the Appellants argue that the City cannot issue a building permit until a homeowners association is formed.

“The City wrongfully approved the Building Permit because no Homeowners Association (“HOA”) has been formed pursuant to ORS 94.625.” See above.

Appellants withdrew this argument before the Planning Commission and, accordingly, this decision will not address this contention.

CONCLUSION

The Planning Commission adopts these Findings of Fact and revokes the City’s issuance of the Building Permit.

PLANNING COMMISSION ACTION

TENTATIVE MOTION: Having considered the evidence in the record, upon a motion by Commissioner Patrick and seconded by Commissioner Kerr to *tentatively reverse* the administrative decision to conditionally approve Building Permit (BP# 164-21-000179-DWL and unanimously **APPROVES** the Greg Hathaway application, on behalf of Jeff & Jennifer Harrison, application number **AA#21-02 Administrative Appeal**, as discussed and requests staff to draft findings for review and adoption, at a special called meeting, next Thursday at 6PM, December 2nd at City Hall.

MOTION TO ADOPT FINDINGS: Having considered the evidence in the record, upon a motion by Commissioner Kerr and seconded by Commissioner Knop, The Planning Commission unanimously adopts the changes in the Findings, as proposed, *reversing* the administrative decision to conditionally approve Building Permit (BP# 164-21-000179-DWL and **APPROVING** the Greg Hathaway appeal application, on behalf of Jeff & Jennifer Harrison, application number **AA#21-02 Administrative Appeal**.

VOTE:

Ayes: Bennett, Bernt, Kerr, Knop, Newton, and Chair, Johnson;

Nays: None

Absent: Patrick

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS (“Agreement”) is entered into by and between MJ NAJIMI (“Najimi”), and VICTOR J. HARDING and JANE BOUVET-HARDING, husband and wife (“Harding”) referred to collectively herein as the “Settling Parties”.

RECITALS

WHEREAS, Najimi is the fee owner of real property located in Clatsop County and more commonly known as 544 Laurel Street, Cannon Beach, OR (the “Najimi Property”);

WHEREAS, Harding is the fee owner of real property located in Clatsop County and more commonly known as 556 Laurel Street, Cannon Beach, OR (the “Harding Property”);

WHEREAS, the Harding Property is located directly North of the Najimi Property and the two parcels share a common property line;

WHEREAS, the Harding Property is the dominant estate and the Najimi Property is the servient estate for a certain parking easement (“Parking Easement”) contained in paragraph 2 of a document titled Access Easement (“Access Easement”), which is recorded as Recording Instrument # 201710583 in Clatsop County’s real property records;

WHEREAS, a dispute has arisen between Najimi and Harding regarding Harding’s pouring of a foundation and construction of a building on the Parking Easement (the “Harding Garage”);

WHEREAS, Najimi filed a lawsuit against Harding in Clatsop County more commonly known as *MJ Najimi v. Victor J. Harding and Jane Bouvet-Harding*, Clatsop County Cir. Ct., Case No. 21CV39140 (“Lawsuit”) seeking clarification of certain use issues related to the Parking Easement;

WHEREAS, in order to avoid the cost and uncertainty of litigation, the Settling Parties have agreed to settle all issues among them;

NOW THEREFORE, in consideration of the terms, covenants, and conditions set forth in this Agreement, the Settling Parties mutually agree as more fully set forth below.

AGREEMENT

1. **Consideration.** The Consideration for this Agreement is as follows:

1.1 From Harding.

1.1.1 As soon as practicable, Harding will cause the Harding Garage built on the Parking Easement to be moved entirely off of the Parking Easement or demolished and the debris hauled away at Harding’s sole cost and expense, with the surface of the Parking

Easement and the property around it, if affected by the demolition, returned to the same or similar condition before building of the Harding Garage and removal/demolition as the surrounding property immediately adjacent to the Parking Easement.

1.1.1.1 Harding will comply with all City of Cannon Beach requirements related to the demolition and removal of the Harding Addition, including but not limited to obtaining a demolition permit if required and paying for all fees and costs associated with the City's requirements.

1.1.2 Amending the language of section 2 of Access Easement – the Parking Easement – to preclude the construction of any structure with walls and/or a roof, which requires any sort of foundation, as more fully set forth in the Amendment to Access Easement, attached hereto and fully incorporated herein as Exhibit 1.

1.2 From Najimi:

1.2.1 Dismissing the Lawsuit with prejudice and without an award of any attorney fees or costs to any party, as soon as the Harding Addition is moved or demolished and the surface of the Parking Easement area restored per section 1.1.1 above.

1.2.2 Amending the language of section 2 of the Parking Easement to preclude the construction of any structure with walls and/or a roof, which requires any sort of foundation, as more fully set forth in the Amendment to Access Easement, attached hereto and fully incorporated herein as Exhibit 1.

1.2.3

2. **Settled Claims.** As used in this Agreement, the term “Settled Claims” shall mean and include any and all claims, causes of action, allegations or demands, of whatever kind and nature, that Najimi and/or Harding could have asserted against one another, arising out of or in any way related to the Parking Easement, the Harding Garage, and the Lawsuit, regardless of whether any such claims are presently known, unknown or which could have been known by the Settling Parties up to and including the date this Agreement is executed. Except as otherwise provided in this Section 2, Settled Claims **do not** include (i) any claims arising out of the breach of this Agreement or (ii) except as expressly contained in this Agreement, any other claims, rights, obligations or benefits contained in or arising out of the Access Easement (recorded as document number 201710583 in Clatsop County) or the Shared Access and Maintenance Easement (recorded as document number 201609087 in Clatsop County) and including but not limited to any claims, rights, obligations or benefits related to or arising out of the stairway easement contained in the Access Easement.

3. **Najimi's Release of Harding.** Effective with completed removal or demolition of the Harding Garage as described in Section 1 and dismissal of the Lawsuit, Najimi hereby releases Harding from and against any and all liability, accountability or responsibility for any damage, loss or injury arising out of, resulting from, or in any way relating to the Settled Claims, which are fully and finally released in their entirety as to the Settling Parties. This release shall include and inure to the benefit of Harding and their heirs, successors, assigns, administrators,

agents, shareholders, directors, officers, members, partners, employees, affiliates, subsidiaries, parent and associated companies, marital communities, insurers and attorneys.

4. **Harding's Release of Najimi.** Effective with dismissal of the Lawsuit, Harding hereby releases Najimi from and against any and all liability, accountability or responsibility for any damage, loss or injury arising out of, resulting from, or in any way relating to the Settled Claims, which are fully and finally released in their entirety as to the Settling Parties. This release shall include and inure to the benefit of Najimi and his heirs, successors, assigns, administrators, agents, shareholders, directors, officers, members, partners, employees, affiliates, subsidiaries, parent and associated companies, marital communities, insurers and attorneys.

5. **No Third-Party Beneficiaries.** The Settling Parties intend that there be no third-party beneficiaries to this Agreement.

6. **Non-Disclosure.** The Settling Parties agree that they will not disclose the terms of this Agreement to any third party, except their attorneys, accountants, realtors, and prospective purchasers of their respective properties, from the date this Agreement is executed until after December 4, 2021 ("Non-Disclosure Period"). If either party is contacted by any third party during the Non-Disclosure Period about the Lawsuit or this Agreement, the contacted party will simply respond with, "the parties are working toward a solution for their dispute" or words with similar meaning and intent. Nothing in this Agreement is intended to preclude Dean Alterman, attorney for Najimi, from disclosing the existence of this Agreement to the Cannon Beach Planning Commission or City Counsel. Upon disclosure of this Agreement or the end of the Non-Disclosure Period, whichever occurs first, the restrictions of this Paragraph 6 shall end.

7. **Attorney Fees and other Costs and Expenses.** Harding shall be responsible for promptly recording the Amendment to Easement and for any attorney fees/recording fees associated therewith. Apart from that, the Settling Parties are each responsible for their own costs and attorney fees incurred in the preparation of this Agreement. In the event of a dispute arising out of the terms of this Agreement, or in an action to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees and other costs and expenses incurred in that action or alternative dispute resolution process.

8. **Understanding of Terms.** The Settling Parties agree that they have read and understood and voluntarily accept the terms of this Agreement. The Settling Parties further agree that this Agreement shall be construed as broadly as possible to encompass the Settling Parties' mutual intent, which is a full and complete release of all claims, known, unknown or which could have been known, up to and including the date this Agreement is executed.

9. **Additional Documentation; Time of the Essence.** Each of the Settling Parties agrees not only that he or they will execute the Amendment to Easement in the form attached, but that he or they will execute any other documents that become reasonably necessary to effectuate the purpose of this Agreement, and further agree that time is of the essence in executing this Agreement and any other documents that become reasonably necessary to effectuate the same.

10. **No Admission.** The Settling Parties agree that executing this Agreement shall in no way constitute an admission of fault, liability or responsibility under any theory whatsoever

on the part of any of the persons or entities being released by this Agreement. The Settling Parties expressly deny any liability or culpability in connection with the Settled Claims. The payment referenced above is made solely to compromise the Settled Claims.

11. **Integration.** The terms and conditions contained in this Agreement comprise the Settling Parties' entire understanding concerning the subject matter of this Agreement. Such terms and conditions supersede all prior and/or contemporaneous oral and/or written representations, discussions, negotiations, statements, promises, understandings, and agreements concerning such subject matter.

12. **Governing Law.** This Agreement is written under and controlled by the laws of the State of Oregon.

13. **Venue.** Any action brought to enforce this Agreement shall be brought in Clatsop County Circuit Court and shall be controlled by Oregon substantive and procedural law.

14. **Severability.** If any provision of this Agreement is determined to be void, invalid, illegal or otherwise unenforceable under the laws of the State of Oregon, such provision shall be stricken and all remaining provisions shall be unaffected and shall remain valid and fully enforceable.

15. **Construction of Agreement.** Because the Settling Parties have mutually participated in the preparation of this Agreement, the rule of construction that contracts shall be construed against the drafter shall not apply to the interpretation of this Agreement.

16. **Warranty of Non-Assignment.** The Settling Parties acknowledge that they have not assigned any rights or claims arising out of or resulting from the circumstances of this dispute, and the Settling Parties agree to indemnify and defend any and all other Settling Parties against any claims brought against Settling Parties by any person or entity claiming the status of a third-party assignee. Further, this Agreement is personal to the Settling Parties. No attempted assignment by any Party of any obligation or right expressed in this Agreement shall have any force or effect except by written consent of the other Party.

17. **Counterparts.** This Agreement may be executed in multiple counterparts. Upon execution, this Agreement shall become enforceable and binding upon each of the Settling Parties even if it is signed in counterparts. The Settling Parties acknowledge that this Agreement may be executed via facsimile, e-mail (scanned signature), or via DocuSign and that an Agreement bearing a facsimile, scanned or DocuSign signature shall be enforceable as if it was bearing an original signature.

18. **Representation.** The Settling Parties hereby warrant and represent that at all times they have been represented by counsel or have had the opportunity to discuss this Agreement with an attorney prior to affixing their respective signatures hereto. By executing this Agreement, the Settling Parties warrant and represent that they have had an adequate amount of time to properly analyze and consider all of the issues related to the terms and conditions contained in this Agreement, and that they are entering into this Agreement of their own free will and choice and not because of any statements, representations or warranties made by the opposing party or that party's counsel.

DocuSign Envelope ID: 80007710-7102-7100-0000-000000000000

WHEREFORE, the Settling Parties agree to all the terms and conditions of this Agreement by signing in their respective locations below.

DATED: 12/3/2021, 2021.

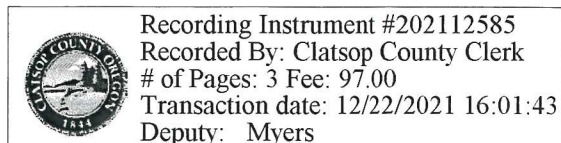
DocuSigned by:
MJ Najimi
By: 6E1DCEA7602E442...
MJ Najimi, individually

DATED: 12/1/2021 | 4:53:29 PM PST, 2021.

DocuSigned by:
Victor Harding
By: F8086CDA0771422...
Victor J. Harding, individually

DATED: 12/1/2021 | 4:48:41 PM PST, 2021.

DocuSigned by:
Jane Harding
By: C77F1F0FAE10474...
Jane Bouvet-Harding, individually



After Recording, Return to:

Hafez Daraee
 Luby/Daraee Law Group, PC
 16869 SW 65th Ave., No. 290
 Lake Oswego, OR 97035

AMENDMENT TO ACCESS EASEMENT

THIS AMENDMENT TO ACCESS EASEMENT is entered into by and between MJ Najimi ("Grantor") and Victor J. Harding and Jane Bouvet-Harding, husband and wife ("Grantee").

RECITALS

A. in 2017 Grantor's predecessor-in-interest, Lucie's Cottages, LLC, and Grantees executed an Access Easement which is recorded as Recording Instrument Number 201710583 in Clatsop County ("2017 Access Easement").

B. Grantor and Grantee wish to amend the 2017 Access Easement as it refers to a Parking Easement for the benefit of Grantees as more fully set forth below.

NOW THEREFORE, Grantor and Grantee agree as follows:

1. Paragraph 2 of the 2017 Access Easement, entitled Parking Easement is hereby amended and replaced with the following language:

2. **Parking Easement.** Grantor hereby grants to Grantee a perpetual exclusive easement for parking vehicles (cars and pickup truck) on, over and across the areas described on Exhibit C and depicted on Exhibit A as "Grantee Parking Area." The Grantee Parking Area may be used, maintained and improved only by the Grantee Benefited Parties for parking. Grantee cannot and will not build any structure or improvements on the Grantee Parking Area that has any walls or a roof, or which requires a foundation of any kind, such as a garage or carport. Grantee may improve the surface of the Grantee Parking Area as long as the surfaces matches the surface of the Access Easement area which is depicted on Exhibit B. Any person, including Grantor, who parks in the Grantee Parking Area without Grantee's permission is trespassing and may be dealt with under the law of Trespass.

2. Except as otherwise expressly modified by this document, all other provisions of the 2017 Access Easement shall remain untouched and as set forth in that document.

Grantor:



MJ Najimi

State of ~~Oregon~~ Texas)
County of Collin) ss.

This instrument was acknowledged before me on December 3rd, 2021, by MJ Najimi.




Notary Public for ~~Oregon~~ Texas
My Commission Expires: 02/14/2025


Grantee:


Victor J. Harding

State of Oregon)
County of Clatsop) ss.

This instrument was acknowledged before me on December 16, 2021, by Victor J. Harding.




Notary Public for Oregon
My Commission Expires: July 2, 2023

Grantee:

Jane Bouvet-Harding
Jane Bouvet-Harding
Bouvet

State of Oregon)
County of Clatsop) ss.

This instrument was acknowledged before me on December 16, 2021, by
Jane Bouvet-Harding.



T. Sal
Notary Public for Oregon
My Commission Expires: July 2, 2023



City of Cannon Beach

DEMOLITION PERMIT

Pursuant to Cannon Beach Municipal Code Chapter 15.12

CANNON BEACH PUBLIC WORKS

PO BOX 368, 163 E Gower

Phone: 503.436.8066 TTY: 503-436-8097

Fax: 503.436.2050

FOR DEPARTMENT USE ONLY

PERMIT #

22-0001

Issued Date:

1/3/22

Issued By:

KB

MAP/TAX LOT#

JOB SITE INFORMATION

Address: 556 N LAUREL (B)

City/State: Cannon Beach Oregon

Additional Information:

Garage Teardown

OWNER INFORMATION

Name: Victor Harding

Address: PO Box 1986

City/State: Cannon Beach OR

Phone: 503 739 2333

- ☒ I am the property owner hiring a construction contractor
☐ I am licensed with the City of Cannon Beach
☐ I am registered with the Construction Contractors Board
☐ I am the property owner doing my own work

License #: 102046 Expires: 7/1/22

License #: Expires:

Reg #: Expires:

Contractor Name: THORESON Excavating

Address: Clatsop County

Telephone: 503 440-1594 Cell Phone:

Fax: DEC 17 2021

Received

DEMOLITION OF EXISTING STRUCTURE INSTRUCTIONS

1. Complete application and initial that each site condition has been met. **If the site conditions have not been met, a site inspection will not be scheduled.**
2. Submit application to City and pay permit fee. If applicant is NOT the homeowner, a copy of the legal contract between the contractor and homeowner must be submitted with the application.
3. Call the Assistant Public Works Director at (503) 436-8066 for a site inspection **PRIOR** to demolition.
4. The Assistant Public Works Director will conduct a site visit to confirm site condition requirements have been met. Once confirmed the City will issue the permit.

OK to Demo Jan-Mar 1-3-22

SITE CONDITIONS

- a. Power disconnected by utility company? OKTM
b. Gas disconnected by utility company? OKTM
c. Communication lines removed? N/A
d. Water, sewer and storm sewer capped? OKTM
e. Flammable items removed? N/A
f. Tanks removed or decommissioned? N/A

OFFICE USE ONLY

If water is needed for demolition please note below.
Sewer and storm cap still required

NOTES:

PERMIT FEES

\$106.00

Utility billing will continue until the homeowner contacts the finance department to assure all accounts are paid and request discontinuance of services. Once ALL services are capped, and city staff has inspected the property, the finance department will issue a service order to lock off meter for temporary disconnect of services.

I hereby certify that, to my knowledge, the above information is true and correct. I have read, and I do understand, that attached "information Notice to Property Owners about Construction Responsibilities." All work to be performed shall be in accordance with all governing laws and rules.

OFFICE USE ONLY

Date:

Receipt#

Check #

Applicant's Signature: Victor Harding

Print Name: VICTOR HARDING

Date: 12/17/21

After demolition commencement, the project shall be completed within 30 days including clean-up and site restoration unless prior permit extension has been approved in writing.

Revised: 6/28/21



CITY OF CANNON BEACH

NOTICE OF APPEAL OF PLANNING COMMISSION DECISION

Appellant's Name: Dean N. Alterman, as attorney for MJ Najimi
 Email Address: dean@alterman.law
 Mailing Address: 805 SW Broadway, Suite 1580
Portland, Oregon 97205
 Telephone: (503) 517-8201

Appeal of AA 21-01

1. Appeal of Planning Commission decision of December 2, 2021, regarding:
 Application of MJ Najimi to build a house on Lot 1, CANNON BEACH PRESERVATION,
 and the commission's granting of the appeal of Jeff and Jennifer Harrison against the permit
2. Interest/Involvement in initial proceedings: Mr. Najimi is the property owner and applicant.
 He appeared through counsel orally and in writing below.
3. Specific grounds relied upon for review and criteria addressed at Planning Commission hearing against
 which review is being requested: A more detailed letter will follow. In general:
 A. The planning commission revoked the permit based on the presence of the Hardings' garage,
 a building for which the city granted a building permit without the property owner's consent;
 B. The planning commission asserts that it can deny Mr. Najimi's applications one after another without
4. Type of Review/Appeal Requested: having to give a complete list of reasons that Mr. Najimi can fix;
 C. The planning commission improperly revisited issues settled in the prior application.
☐ On the Record _____
☒ Hearing on Specific Issue or Issues Request to submit new evidence: Harding garage issue has
☐ De Novo Hearing _____ now been settled and resolved. 17.88.180.A.1.

If you are requesting a hearing on a specific issue or issues, or a de novo hearing, please state the reason(s) for requesting such a hearing (refer to page one of General Information Sheet and note a specific reason from Section 17.88.180 of the Municipal Code): Mr. Najimi requests that the City Council take additional evidence relating to Mr. Najimi's lawsuit against Victor and Jane Harding, owners of the garage on Mr. Najimi's lot, and in particular with respect to the settlement of the lawsuit between Mr. Najimi and the Hardings, under which the garage will be removed. Removing the garage cures every reason that the planning commission gave. **Please attach additional pages, if needed, and any other relevant information.** for denial.

FEE: \$1,000

Appellant Signature: Dean N. Alterman Date: December 10, 2021

For Staff Use Only:

Date Appeal Received: _____ By: _____

Appeal Fee Paid On: _____ Receipt No.: _____

(Last revised March 2021)

APPEALING A PLANNING COMMISSION DECISION GENERAL INFORMATION

Decisions of the Planning Commission may be appealed to the City Council. The appeal must be submitted on the form provided by the City. The appeal must be received by the City within fourteen consecutive calendar days of the date that the Planning Commission order was signed.

In order to file an appeal, a person must have:

1. Participated in the Planning Commission hearing, either through oral testimony or by correspondence.
2. Raised the issues on which the appeal is based at the Planning Commission hearing.

An appeal must contain the following information:

1. The Planning Commission decision that is being appealed.
2. A statement that the person making the appeal participated in the Planning Commission hearing.
3. The basis for the appeal, citing which criteria of the Planning Commission findings of fact were in error.
4. A statement that the criteria on which the appeal is based were addressed at the Planning Commission hearing.

There are three types of appeals to the City Council:

1. On the Record Established by the Planning Commission. In this type of an appeal the Council reviews the findings of fact adopted by the Planning Commission, as well as the information on which those findings are based. The Council does not hold a new public hearing. The person making the appeal, as well as others who participated in the Planning Commission hearing, may summarize the arguments they made before the Planning Commission. However, no new evidence may be presented to the Council.
2. De Novo Hearing. In this type of an appeal the Council holds a new public hearing. In addition to the testimony received at the public hearing, the Council also considers the record of the Planning Commission hearing.
3. A New Hearing on Specific Issues. This type of an appeal is similar to a de novo hearing, except that new evidence is considered only on a specific issue or issues. The remainder of the appeal is based on the findings of fact established by the Planning Commission.

Generally, the City Council hears appeals based on the record established by the Planning Commission.

In addition to the general information required for an appeal, a request for a de novo appeal, or a new hearing on specific issues appeal must demonstrate that one of the following apply:

1. There is a valid reason why the additional evidence could not be presented at the Planning Commission hearing; or
2. A new hearing is required to properly evaluate a significant issue relevant to the proposal.

The City Council will determine, as a non-public hearing item, whether or not to accept a request for a de novo hearing, or a new hearing on a specific issue. If the Council does not grant the request, the appeal will be heard on the record established by the Planning Commission.



MEMORANDUM

To: The Mayor and Councilors
City of Cannon Beach

From: Dean N. Alterman
Alterman Law Group PC

Date: January 4, 2022

Re: Appeal of MJ Najimi
APP 21-03
Our file no. 5125.002

I'm sending you this note so that the record is clear on what additional evidence I would like to submit on behalf of MJ Najimi, and the purpose for the additional evidence.

The planning commission granted the appeal of Jeff and Jennifer Harrison and revoked Mr. Najimi's building permit not because of any characteristic of Mr. Najimi's proposed house, but because Mr. Najimi's lot already has a garage that belongs to the adjoining property owners, Victor and Jane Harding.

After the record before the planning commission closed, and thus too late to present the information to the planning commission, Mr. Najimi and the Hardings reached a settlement under which the Hardings will remove the garage. I am told that they have applied for a demolition permit. The Hardings have also agreed to amend the easement agreement on which the City relied in granting them a building permit for the garage to make it clear that the easement does not allow the Hardings to build any structure on Mr. Najimi's lot.

I propose to submit the following specific evidence, if the city council is willing to consider it: the relevant portions of the settlement agreement between Mr. Najimi and the Hardings, the amendment to the easement agreement, and (if already filed) the Hardings' application to demolish the garage.

Copy: Jeffrey Adams, Ph.D., Planning Director
William Kabeiseman, City Attorney
Greg Hathaway, attorney for Jeff and Jennifer Harrison

Jeffrey Adams

From: Dean N. Alterman <Dean@alterman.law>
Sent: Tuesday, January 18, 2022 9:59 AM
To: Jeffrey Adams
Cc: Greg Hathaway; Bill Kabeiseman
Subject: APP 21-03 - Najimi appeal from planning commission decision on Harrison appeal
Attachments: Settlement Agreement and Mutual Release of Claims - Harding-Najimi (00114305xE9A19).pdf; Amendment to Access Easement - Harding-Najimi recorded 12-22-2021 202112585 (00114304xE9A19).pdf

Follow Up Flag: Follow up
Flag Status: Completed

Jeff,

I've attached for the record the settlement agreement between Mr. Najimi and the Hardings. I've also attached the recorded amendment to the access agreement. The effect of the amendment is to allow the owners of the Harding property to install and maintain a hard surface in the parking easement, and to eliminate their right to build any structure within the parking easement.

Section 1.1 of the settlement agreement requires the Hardings to remove the garage promptly, for which they have already applied for and received a demolition permit. With the imminent removal of the Hardings' garage from Mr. Najimi's lot, he will have resolved the planning commission's objections to his house.

I suggest that the planning commission adopt the following condition of approval to ensure that the offending garage is removed:

X. No final inspection and approval for occupancy shall be issued for the house until the demolition of the existing garage on Lot 1 is substantially complete.

Dean



DEAN N. ALTERMAN
 ATTORNEY

D: (503) 517-8201 | O: (503) 517-8200 | F: (503) 517-8204
 E: dean@alterman.law

805 SW Broadway, Suite 1580
 Portland, Oregon 97205
www.Alterman.Law

Special Notice: Alterman Law Group is participating in recommended measures to control the spread of the COVID-19 coronavirus, including social distancing and working from home when possible. We receive all e-mails and voice mails left on our direct lines. Our response to voice mails on our general number may be delayed.

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

The Cannon Beach Planning Commission will hold a virtual public hearing on **Thursday, January 27th, 2022 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

AA 21-01, Remand of the Jeff and Jennifer Harrison appeal of the City's approval to issue a development/building permit for 544 N Laurel Street. The property is located at 544 N Laurel Street (Tax Lot 07000, Map 51019AD), and in a Residential Medium Density (R2) zone. The request will be reviewed pursuant to Municipal Code, Section 17.88.160, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance, conditions of approval of the Cannon Beach Preservation Planned Development Subdivision and approved plat.

AA 21-03, Dana Cardwell appeal of the City's administrative decision to approve development permit DP#21-23 for the Forest Lawn Right-of-Way for a stormwater pipe extension under Chapter 17.62 Grading, Erosion and Sedimentation Control. The proposed work is on the east side of Forest Lawn in front of Taxlot 510301A01100 in a Residential Medium Density (R2) zone. The appeal will be reviewed pursuant to Municipal Code, Section 17.92.010, Development Permits, Section 17.62 Grading, Erosion and Sedimentation Control, Review Consisting of Additional Evidence or de Novo Review and applicable sections of the zoning ordinance.

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit for shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a

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

reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Jeffrey Adams, 503-436-8040, or at adams@ci.cannon-beach.or.us.

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



Jeffrey C. Adams, PhD
Director of Community Development

Posted/Mailed: **January 5, 2022**



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **CU 21-03**, JACQUELINE O. BROWN REVOCABLE TRUST, APPLICATION, REQUESTS THE INSTALLATION OF A SHORELINE STABILIZATION STRUCTURE AND SAND FILL FOR THE PURPOSE OF EROSION CONTROL. THE PROPERTY IS LOCATED AT 116 N. LAUREL STREET. (TAXLOT# 51019DD04000) AND IS IN THE RESIDENTIAL MEDIUM DENSITY (R2) ZONING DISTRICT. IT IS ALSO IN THE OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTIONS 17.80.110 AND 17.80.230, SHORELINE STABILIZATION, PROVISIONS ESTABLISHED.

Agenda Date: January 27, 2022

Prepared By: Robert St. Clair

GENERAL INFORMATION

NOTICE

Public notice for this January 27, 2022 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on January 5, 2022;
- B. Notice was mailed on January 5, 2022 to surrounding landowners within 100' of the exterior boundaries of the property.

DISCLOSURES

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

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on November 23, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Shoreline stabilization application #21-03, stamped Received November 23, 2021;
- A-2** Photographs showing site conditions and location of proposed stabilization project;

"B" Exhibits – Agency Comments

- B-1** November 16, 2021 email from Eric Crum of Oregon Parks and Recreation Department regarding state requirements for the shoreline stabilization improvement project at 116 N. Laurel St.

“C” Exhibits – Cannon Beach Supplements

C-1 None as of this writing;

“D” Exhibits – Public Comment

None received as of this writing;

SUMMARY & BACKGROUND

The applicant, Jacqueline O. Brown Revocable Trust, requests a shoreline stabilization to prevent erosion from encroaching onto 116 N. Laurel St, as shown on the aerial photograph at the end of this staff report. The property is in the City’s Residential Medium Density (R2) zone as well as the Oceanfront Management Overlay (OM) zone. The current request is evaluated against applicable standards in Cannon Beach Municipal Code (CBMC) chapter 17.42.060 Standards for shoreline stabilization structures in the Oceanfront Management Overlay (OM) zone; the conditional use permit criteria in CBMC 17.80; and applicable requirements of the Comprehensive Plan.

The applicant states that there has been significant erosion into the landscaped lawn area that has occurred over the past two years due to king tides and storm surge events. Properties to the north of 116 N. Laurel are protected by seawalls and rip rap extending from Second St. toward Ecola Creek, properties to the south are described as being generally intact unplanted sand dunes at the present.

The proposed non-structural shoreline stabilization is the replacement of sand that has eroded from the west side of the subject property and use of natural jute or coir material to stabilize it. The sand would then be planted with native willows and a mixture of European and American beach grass.

Installation of shoreline stabilization structures in the Oceanfront Management Overlay Zone is permitted under CMBC 17.42.030.C.1 subject to the provisions of 17.80.230. Approval requirements are excerpted in this staff report.

Applicable Criteria

The Cannon Beach Municipal Code (CBMC) requires all shoreline stabilization structures apply for a conditional use permit in the R2 and Oceanfront Management zoning districts that make up the subject property.

Cannon Beach Municipal Code defines shoreline stabilizations structures as:

17.04.520 Shoreland stabilization.

“Shoreland stabilization” means the protection of the banks of tidal or inter-tidal streams, rivers, estuarine waters and the oceanfront by vegetative or structural means.

Oceanfront Management Zone Uses and Permitted Activities

17.42.020.A.2.B *Relationship to the Underlying Zone. Uses and activities within the OM zone are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this zone and the underlying zone conflict, the provisions of this zone shall apply.*

Staff Comment: The underlying zone is Residential Medium Density (R2) and a structural shoreline stabilization such as rip-rap, bulkheads, or a sea wall is defined as a conditionally permitted use in 17.14.030.D. Meets criteria.

17.42.030.C Uses Permitted in the OM Zone

C. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are

subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.80, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.80.230;
2. Nonstructural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5);
3. Preservation grading, subject to the provisions of Section 17.42.060(A)(3);
4. Remedial dune grading, subject to the provisions of Section 17.42.060(A)(4).
5. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access.

Staff Comment: Conditional approval of shoreline stabilization is permitted on lots that consist of beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding. The property is subject to tidal events such as king tides and storm surges that are undercutting the existing foredune and causing rapid erosion of the subject property and an immediately adjacent public beach access. The applicant provides a description of approximately 50 cubic-yards of sand fill material being transported to the site by truck and placed with an excavator. The applicant states that a beach access permit will be obtained for this purpose. Meets criteria upon conditions of approval #2 and #3.

17.42.060.A.5 Nonstructural Shoreline Stabilization

5. Nonstructural Shoreline Stabilization Program.

- A. The program is prepared by a qualified individual approved by the city. The program shall be based on an analysis of the area subject to accretion and/or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.
- B. The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.
- C. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.
- D. Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.
- E. The affected property owners shall establish a mechanism that provides for the on-going management of the proposed program.
- F. The impact of the program shall be monitored. For multiyear programs, an annual report detailing the effects of the program during the previous year shall be presented to the planning commission. The report shall include recommendations for program modification. For a one-year program, a final report detailing the effects of the program shall be presented to the planning commission.
- G. Areas that accrete as the result of a stabilization program will not form the basis for reestablishing the location of the building line specified by Section 17.42.050(B)(3).

Staff Comment: The proposed stabilization project is designed to be an alternative to the structural placement of rip-rap or other constructed barrier and will be covered with sand fill material that will have planted vegetation to provide surface cover and provide additional stability. The 'qualified individual' as outlined by the criteria does not give suggested qualifications or criteria for such a determination. There is no indication whether sand will be graded or if there will be fill necessary to establish the vegetation. If over fifty cubic yards are to be moved, the preservation grading standards, CBMC 17.42.060(A)3, copied below, should be considered in review. The application proposes jute material in efforts to establish vegetation, rather than fencing. The site should be monitored yearly by the applicant and provided to the City as documentation as a condition of approval. The proposed design is consistent with surrounding conditions and is intended to restore the foredune to a more natural appearing state. Meets criteria upon condition of approval #2.

Conditional Uses for Shoreline Stabilization

17.80.110 Conditional Use Approval Standards

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

- A. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.*
- B. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.*
- C. The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.*
- D. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.*
- E. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.*
- F. The site and building design ensure that the use will be compatible with the surrounding area.*

Staff Comment: The application indicates that the project is necessary to counter the rate of erosion being seen at the subject property and restore material that has been removed by tidal and storm surge events, the project will also allow for the property to be restored to a visual appearance similar to that of adjacent properties. The application does not describe where trucks and other equipment will access the project site, only that a beach access permit will be obtained prior to commencing work. Meets criteria.

17.80.230.C Shoreline Stabilization Standards

The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

Staff Comment: Due to the project's location on the border of the state vegetation line, the project will require coordination with the Oregon Parks and Recreation Department. The application states that this permit will be obtained prior to commencement of work. State requirements, as found in Exhibit B-1, include the following:

- Allowance to place up to 50 cubic yards of natural material on the ocean shore through a free drive on the beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles four to eight inches in size. Any imported sand must be clean and free from any contaminant or seed. Cobble cannot be quarried or angular rock and must match, as closely as possible, naturally occurring cobble present at the work site location.
- Any proposed dynamic revetment such jute matting or planting, using more than 50 cubic yards of sand, or building a cobble revetment project using more than 50 cubic yards of material requires the approval of a Shoreline Alteration Permit from Oregon Parks and Recreation Department.

The application does not describe the source of sand to be used as fill in the project. Any grading done to generate fill material shall be subject to condition three detailed in the conditions of approval.

The project will meet criteria so long as the volume of new material being placed does not exceed 50 cubic yards. If the project proposes to exceed 50 cubic yards they would be required to coordinate with the State and the preservation grading criteria of section CBMC 17.42.060(A)3, Preservation Grading, copied below, would apply.

17.80.230.D.1 Shoreline stabilization priorities

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:

- a. Proper maintenance of existing riparian vegetation;*
- b. Planting of riparian vegetation;*
- c. Vegetated rip-rap;*
- d. Nonvegetated rip-rap;*
- e. Bulkhead or seawall.*

Staff Comment: The applicant's proposal is described as the replacement of approximately 50 cubic yards of sand which will be supported by natural jute or coir material and planted vegetation consisting of natural willows and European and American beach grasses. Meets criteria.

17.80.230.E.1 Qualifications for Beachfront Protection

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

- a. There is a critical need to protect property that is threatened by erosion hazard;*
- b. Impacts on adjacent property are minimized;*
- c. Visual impacts are minimized;*
- d. Access to the beach is maintained;*
- e. Long-term or recurring costs to the public are avoided; and*
- f. Riparian vegetation is preserved as much as possible.*

Staff Comment: Although no statement from an engineer has been provided, application materials indicate that structures on the property may be threatened in the near future if the rate of erosion continues unchecked. The project would allow for the dune to be returned to a more natural state, visually consistent with surrounding properties. There should be no impacts to beach access or recurring costs to the public, and the proposed planting of willows and beach grasses, if allowed to establish, should provide stability to the eroding dunes. Meets criteria upon condition of approval #2.

17.80.230.I Minimum Level of Protection Limitation

The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

Staff Comment: The project as described does not appear to exceed the original footprint of the beach facing yard and adjacent natural dunes. Meets criteria.

Staff Recommendation

Staff recommends approval of this Conditional Use Permit for nonstructural shoreline stabilization subject to the conditions outlined in the decision below.

Procedural Requirements

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. It was submitted December 2, 2021; and determined to be complete on December 2, 2021. Based on this, the City must make a final decision before March 22, 2022.

The Planning Commission's January 27th meeting will be the first evidentiary hearing on this revised request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission's next regularly scheduled hearing date is February 24, 2022.

DECISION, CONDITIONS AND FINDINGS

Motion: Having considered the evidence in the record, upon motion by Commissioner _____, second by Commissioner _____, and by a vote of ___ to ___, the Cannon Beach Planning Commission hereby (approves/approves with conditions/or denies) the conditional use request for the construction of a structural shoreline stabilization of CU# 21-03 as discussed at this public meeting (subject to the following conditions) and approves the drafting of findings for Commission consideration and adoption at its next scheduled meeting of February 24, 2022:

1. The applicant shall coordinate this project with Oregon Parks and Recreation Department and obtain all permits required for this work including beach access for vehicles.
2. Planning Commission provides preferred vegetation planting guidance as per Foredune Management Plan 2018 revision Vegetation Planting Specifications language (pg. 18).
3. Any preservation grading shall be subject to the following conditions:
 - Areas of sand removal covered under this permit are ocean front and side yards within 35 feet of the foundation of the structure and an area of no more than 12 feet in width west of the established fence line west of the established fence line west of the structure to allow use of heavy equipment for sand removal.
 - Sand removed from this area to be placed back in the sand/beach system in the areas indicated on the attached map. The intent of this requirement is to place sand over the edge of the sand bluff onto the tide washed area of the beach.
 - Sands which are mixed with soils, gravel or non-beach vegetation are to be removed from the area and disposed of off-site.

- Moving of sand to the placement area shall take place along routes between the sand/grass mounds indicated. Routes of travel should be in a manner which does not damage existing beach grass or disturb areas west of the 12-foot removal area.
 - Before any work is performed with power equipment in the above area the City shall be given at least 48-hours notice prior to commencing work. Any vehicle access permits for operation west of the zone line shall be obtained.
 - When hand or manual removal of more than 5 yards is to take place the City shall be given at least 48-hours notice prior to commencing work and City will have on-site representation for monitoring activities.
4. Yearly monitoring of the area, by photographic documentation, provided to the City by the applicant.

Preservation Grading Specific Standards, if applicable

CBMC 17.42.060(A)3. Preservation Grading. Grading or sand movement necessary to repair blow-outs, erosion or maintain public access or facilities, which may be allowed in active dune areas only if the area is committed to development and meeting the requirements of Comprehensive Plan Foredune Management Policy. Preservation Grading does not include grading necessary for the repair, maintenance or installation of stormwater outfalls or facilities, including infiltration and water quality systems. Preservation Grading Conditional Use Permit requests for preservation grading shall include the following information:

- a. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one-hundred year flood elevation established in the "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated June 20, 2018; plus an additional one vertical foot safety buffer for predicted sea level rise. The minimal cross-section area that must be maintained is one thousand one hundred square feet of dune above the stillwater flood elevation.
- b. Identify and set priorities for low and narrow dune areas which need to be built up.
- c. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities. Placement of sand on the beach may be permitted as part of a foredune grading permit if sand deposition does not exceed a depth of twelve centimeters. Placement of sand along the seaward face of the dune may be permitted as part of a foredune grading plan if the resulting slope is no steeper than twenty-five to thirty-three percent.
- d. The cumulative volume of proposed grading.
- e. Preservation grading plans shall be submitted to the soil and water district for their comments and any necessary permits shall be obtained from the Oregon State Parks and Recreation.
- f. A monitoring plan. Monitoring is mandatory, and the responsibility of the permit holder. Annual monitoring reports are required for the first and second years following grading activities, and may be requested by the planning commission for subsequent years. Monitoring reports shall include:
 - I. The area, volume, and location of grading;
 - II. The area(s) where graded sand was deposited;
 - III. Erosion control measures;
 - IV. Revegetation measures;
 - V. Impacts on wildlife habitat, including razor clam habitat;
 - VI. Any other requirements of the approved grading plan; and
 - VII. Any conditions of approval imposed by the planning commission.

The city shall retain the services of independent outside experts, at the expense of the permit holder, to review monitoring report and to make recommendations to the city for corrective actions or for future grading, disposition, and revegetation activities. The monitoring report may be included in the review, if conducted by an agreed upon outside expert, at the expense of the permit holder and contracted by the city. Failure to submit the required monitoring reports will result in a penalty and will prevent future grading permits to be issued for the area for a period of five years beginning after the monitoring reports are brought up to date.

- g. Permits for preservation grading shall not be approved unless they comply with applicable policies of the Comprehensive Plan, including Sand Dune Construction and Fore-dune Management Policies.
- h. Permits for preservation grading may be approved if the Planning Commission finds all of the following criteria have been met:
 - I. The proposal achieves a balance of these four objectives:
 - A. To ensure the dunes sustain an adequate sand volume in order to withstand the erosional effects of (an) extreme storm(s) and to minimize any potential for wave overtopping and inundation (flooding) of backshore.
 - B. To strengthen weak points in the dune system (e.g., adjacent to trails), by repairing areas subject to localized blowouts from wind or waves in order to prevent the dune buffer from erosion and potentially being breached during a storm.
 - C. To maintain valuable habitat for a wide range of plants and animals, such as shellfish, including razor clams, and in some cases rare species.
 - D. To maintain the integrity and natural beauty of the dunes, while providing for the necessary functions of public access, facilities and utilities.
 - II. The annual cumulative volume of preservation grading does not exceed two thousand five hundred cubic yards.
 - III. The preservation does not remove sand from the beach-fore-dune system.
 - IV. The preservation grading sand deposition area will not impact adjoining property.
- i. Revegetation of graded areas is mandatory. This can be accomplished with a combination of European Beach grass (*A. arenaria*); non-native American dune grass (*A. breviligulata*); the PNW native dune grass (*E. mollis*); or another revegetation plan approved by the planning commission. Graded areas shall be stabilized immediately after grading. Where immediate revegetation is not possible, or where revegetation fails, temporary erosion control measures shall be implemented until revegetation can be completed. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures, but fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.
- j. Maintenance activities not requiring a separate administrative permit under the approved conditional use permit may include:
 - I. Additional plantings or certified organic fertilizer applications in areas where plantings performed poorly.

Site Location Map



Oceanfront Management Zone Overlay and Vegetative Line





CITY OF CANNON BEACH

CONDITIONAL USE APPLICATION

City of Cannon Beach
Finance Department

NOV 23 2021

Received 

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

Applicant Name: Jacqueline O. Brown Revocable Trust_
Email Address: sbrown@larrybrowninc.com
Mailing Address: 2235 SW 85th St. Portland, OR 97225

Telephone: (503) 887 5846

Property-Owner Name: _____
(if other than applicant)

Mailing Address: _____

Telephone: _____

Property Location: 116 N. Laurel St.
(street address)

Map No.: 51019DD Tax Lot No.: 4000

CONDITIONAL USE REQUEST:

1. Description of the proposal. The proposal is to replace sand that has eroded the bank on the west side of the property with imported clean sand, and to stabilize the sand with natural jute or coir material. The sand would then be planted with native willows on the lower 6-7 feet and a mixture of European and American beach grass on the upper areas of the sand deposition.

2. Justification of the conditional use request. Explain how the request meets each of the following criteria for granting a conditional use.

- a. Explain how a demand exists for the use at the proposed location. Several factors which should be considered include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites, particularly those not requiring conditional use approval; and the desirability of other suitably zoned sites for the use.

As can be seen from the attached photos, there has been significant erosion extending from the beach and State of Oregon Vegetation Line all the way up to the landscaped lawn area. This has occurred in the last two years due to king tides and storm surge events. The properties on either side of the Brown house have not experienced the level of erosion. To the south the properties along Laurel Street are still generally intact, even though they are unplanted sand dunes. The properties to the north are protected by seawalls and rip rap extending beyond Second Street toward Ecola Creek. It is estimated that fifty lineal feet have been lost in the last two or three years.

- b. Explain in what way(s) the proposed use will not create traffic congestion on nearby streets or over-burden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

There will be no impact on public facilities and services. The erosion has uncovered the storm drain line for the Brown house, which must be replaced

- c. Show that the site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by City Ordinances or desired by the applicant.

The Brown residence has experienced a severe loss of the front yard in the last several years. Prior to the recent storm and tidal events, the Browns and the previous owners of the property erected plywood fencing on the western edge of the lawn to prevent sand inundation that would sometimes require an excavator to remove large amounts of sand and return it to the beach.

- d. Show that the topography, soils, and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils must be shown to be eliminated or reduced to the extent necessary for avoiding hazardous situations.

The property is flat, except for the steep eroded dune bank on the west. The house itself sits on a Marine Terrace clay formation. The house has been in existence for several decades, and has not experienced any problems other than the erosion on the ocean front. If the erosion is allowed to continue at the current rate, it will threaten not only the front yard but the foundation of the house.

- e. Explain in what way an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by City ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

There will be no impact on transportation facilities. The contractor will obtain a one day drive on beach permit in order to place the sand up against the bank using an excavator. It is estimate that it will require five truckloads of clean sand to fill the void created by the erosion.

- f. Explain how the proposed site and building design will be compatible with the

showing the development of the site. After you submit a completed application, accompanied by a fee to help defray the cost of processing, the City will begin processing your conditional use application.

Public Hearing - Planning Commission.

Conditional use permit requests are considered by the Cannon Beach Planning Commission at a public hearing. Hearings for conditional use permits will be held within 40 days after the application is submitted. Notice of the hearing is mailed to the applicant and to property owners with 250 feet of the site in question. Prior to public hearing, the City Planner will prepare a written report on the request. The report will contain the background of the request and a recommendation based on an investigation of the facts of the proposal and how they pertain to the criteria for granting a conditional use permit. A copy of the report will be mailed to the applicant. Anyone interested in the application may request a copy of the report. At the public hearing, the property owner desiring the conditional use permit has the burden of establishing that the requested conditional use meets the criteria in the Zoning Ordinance. Other people will be given the opportunity to speak in favor of the request, offer comments, ask questions, and/or speak in opposition. At the end of the hearing, the Planning Commission will approve, approve with conditions, or deny the conditional use request.

Appeals to the City Council.

Appeals of the Planning Commission action must be made within 20 days of the decision. The basis of the written appeal must be that the Planning Commission made an error in its decision. The applicant may ask for a new hearing before the City Council or request that the City Council review the Planning Commission record established in making its decision. The City Council may either uphold, reverse or place conditions upon the Planning Commission decision.

surrounding area.

It is the intent of the project to restore the dune to its original condition with plantings of willows and other hardy vegetation, and appear as a natural dune from the beach.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure, and dimensions of proposed development.

Application Fee: \$750.00

Applicant Signature: _____

Date: _____

Property Owner Signature: _____

Date: _____

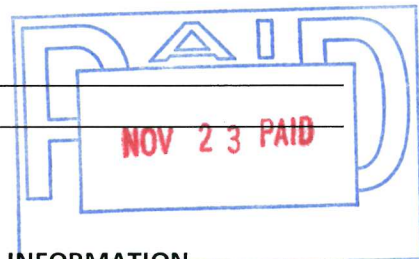
If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

For Staff Use Only:

Date Received: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



CONDITIONAL USE PERMIT - GENERAL INFORMATION

What is a Conditional Use Permit?

Land use on all property in Cannon Beach is governed by zoning districts established by the City Council. Cannon Beach has two main types of zoning districts: residential and commercial. Within each of these main categories there are specific zoning districts, such as Medium Density Residential, R-2, and High Density Residential, R-3. Every zoning district has a list of permitted uses and a list of uses that are only allowed after being approved for a conditional use permit. For example, on property zoned R-2, Medium Density Residential, a single-family dwelling is allowed outright, but a church would be allowed only if approved under a conditional use permit.

The Purpose of Conditional Use Permits

Certain uses by their very nature need special consideration before they can be allowed in a particular zoning district. The reasons for requiring such special consideration involve, among other things, the size and intensity of the use, traffic generated by the use and compatibility of the use with the area. These issues are addressed through the conditional use permit process which involves a public hearing before the Planning Commission.

Application and Processing.

If the use you wish to establish on your property requires a conditional use permit, the first step is to informally discuss your proposal with the City Planner. Applications may be submitted by the property owner or an authorized agent. An application should include a detailed statement of the proposed use and a plot plan

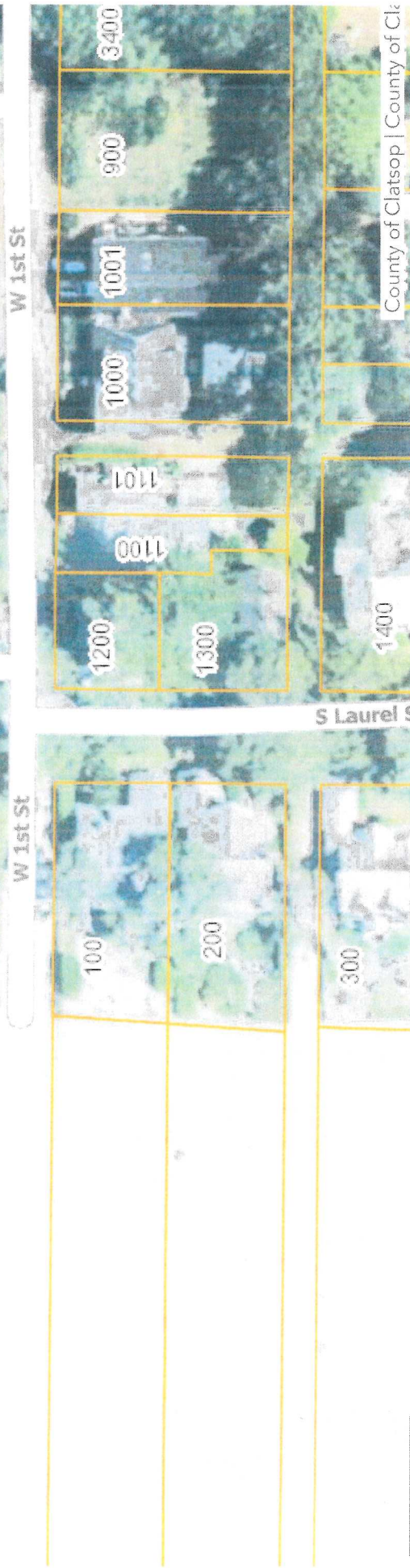
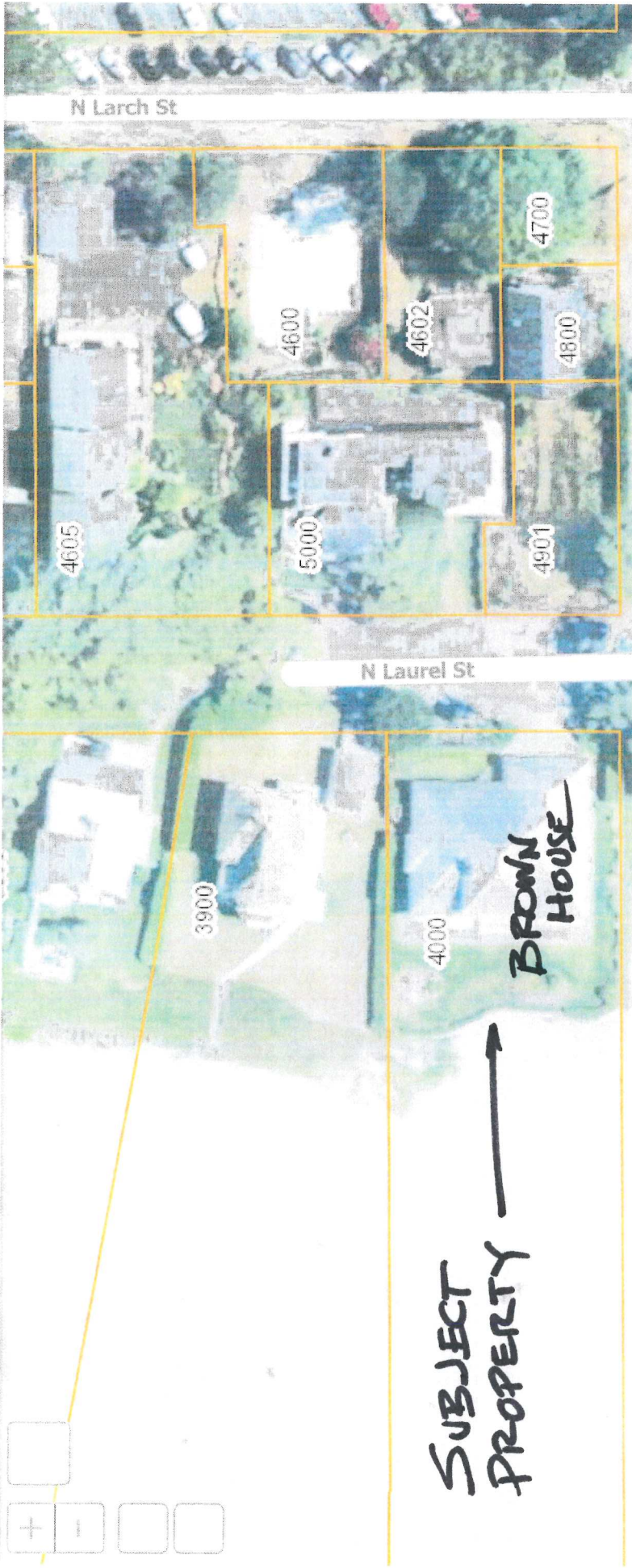
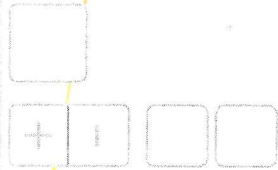
PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-8042 • TTY (503) 436-8097 • FAX (503) 436-2050

www.ci.cannon-beach.or.us • planning@ci.cannon-beach.or.us



Clatsop County Webmaps

Property Info App



-123.962 45.897 Degrees

Hand
Broom

→
Broom
Broom

EXISTING DUNE SOUTH OF BROWN PROPERTY



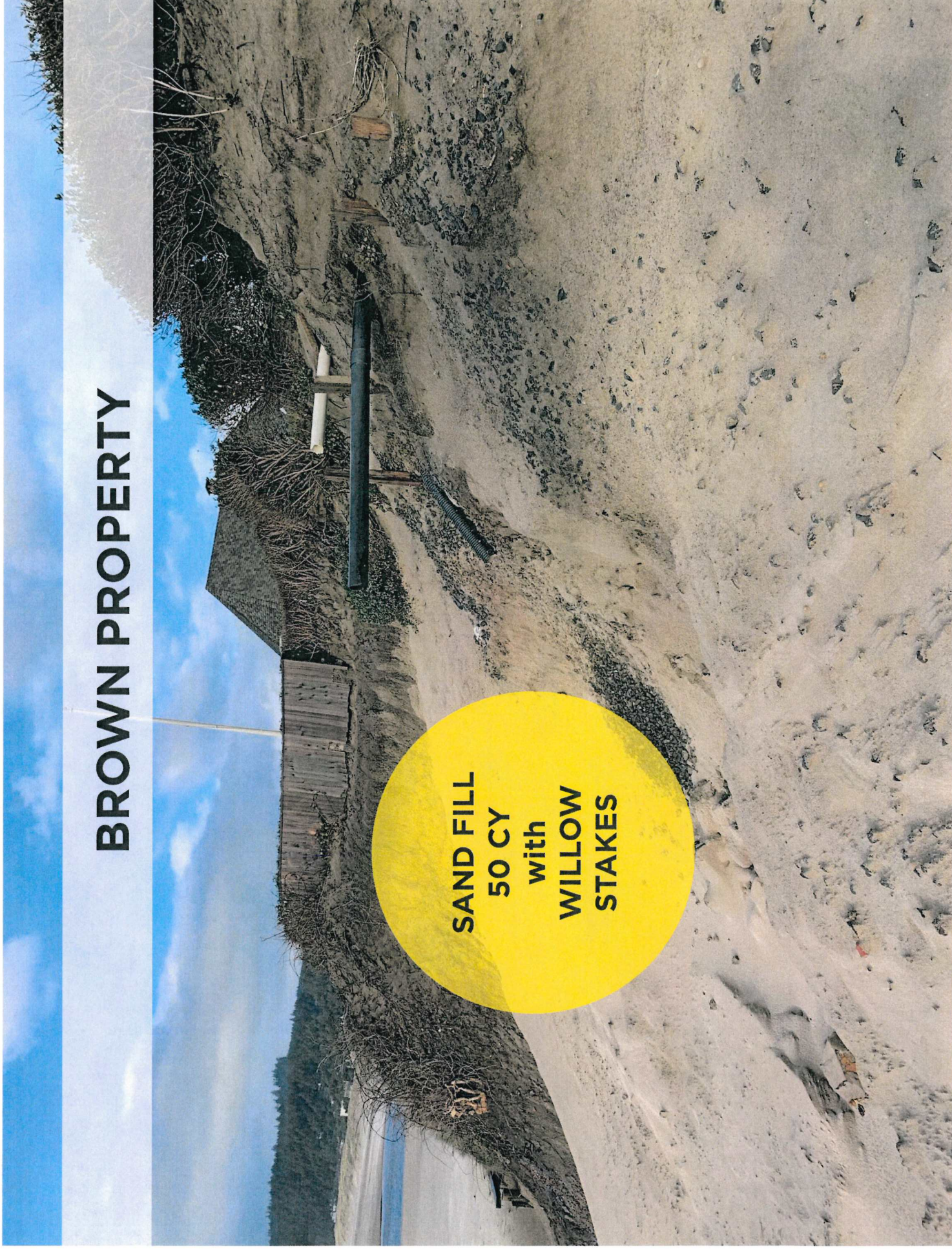
BROWN PROPERTY

SAND FILL
PLANTED
with
WILLOW
STAKES



BROWN PROPERTY

**SAND FILL
50 CY
with
WILLOW
STAKES**



BROWN PROPERTY



Robert St. Clair

From: Jeffrey Adams
Sent: Monday, December 13, 2021 11:11 AM
To: Robert St. Clair
Subject: FW: 116 N Laurel Street, Cannon Beach
Attachments: BPFindings.pdf

Robert,

This is the email that outlines the State's permitting requirements for shoreline stabilization. You could use this in your staff report. I found this CUP from Breakers Point that you might have a look at.

Jeff



Jeff Adams

Community Development Director

City of Cannon Beach

p: 503.436.8040 | **tty:** 503.436.8097 | **f:** 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: www.ci.cannon-beach.or.us | **e:** adams@ci.cannon-beach.or.us

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

From: CRUM Eric * OPRD <Eric.CRUM@opr.d.oregon.gov>
Sent: Tuesday, November 16, 2021 11:03 AM
To: Mike McEwan <mmcewan3569@gmail.com>; Karen La Bonte <labonte@ci.cannon-beach.or.us>; Trevor Mount <mount@ci.cannon-beach.or.us>; Bruce St. Denis <stdenis@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.d.oregon.gov>; Jeffrey Adams <adams@ci.cannon-beach.or.us>; TAYLOR Trevor * OPRD <Trevor.TAYLOR@opr.d.oregon.gov>
Subject: RE: 116 N Laurel Street, Cannon Beach

Mike, Karen, Trevor, and Bruce,

Thank you for taking the time to meet with us yesterday. I'm including a brief recap here on what we discussed for the 116 N Laurel St project. I will follow-up with a subsequent email concerning the city's outflow pipes and that permit process moving forward.

We discussed a few potential options for working on the ocean shore in this location:

1. You are allowed to place up to 50 cubic yards of natural material on the Ocean Shore through a free drive on beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles 4"-8" in size. If using driftwood, it cannot be structurally engineered, but simply placed on the ocean shore. Any imported sand would have to be clean and free from any contaminant or seed. The river cobble cannot be quarried rock, nor can it be angular. The cobble must match, as closely as possible, the naturally occurring cobble currently present in the location. The free Drive on Beach permit application can be found here: <https://stateparks.oregon.gov/index.cfm?do=visit.dob-form>

2. Any proposed dynamic revetment (i.e., jute matting and planting), using more than 50 yards of sand, or building a larger cobble revetment project using more than 50 cubic yard of material would require a complete and approved Shoreline Alteration Permit. That permit application can be found here (<https://www.oregon.gov/oprd/prp/pages/per-ocean-shore.aspx>) and here: (https://www.oregon.gov/oprd/PRP/Documents/PRP_PER_OS_SPS_form.pdf). There is a cost associated with this, as well as a public-comment notification period. In section 1, they would choose "Other." Please note that if the project is more than 50 feet in length, it would require a geologic report from a registered professional geologist and a completed Analysis of Hazard Avoidance. Also note that this permit requires the attached City/County Planning Department Affidavit (pg.9) to be completed and signed off/approved by the local planning official, in this case it would be from the City of Cannon Beach.
3. A permanent riprap revetment or seawall would also be obtained through the same Shoreline Alteration Permit, including the same requirements as mentioned above in number 2. A brief check of the Coastal Atlas reference map (<https://www.coastalatlant.net/oceanshores/>), indicates that the property is potentially eligible for a beachfront protective structure. Again, this would have to be verified and approved by the City of Cannon Beach and Clatsop County.

As we observed at the site, there are at least 2 pipes currently exposed and draining onto the ocean shore from this property. Any drainage or water outflow that occurs west of the Statutory Vegetation Line, would also have to be addressed and included in the proposed project application for the Shoreline Alteration Permits.

If you have any further question regarding this project, and these options, please feel free to reach out. My contact information is provided below.

Best,

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366
www.oregonstateparks.org

From: CRUM Eric * OPRD
Sent: Wednesday, November 10, 2021 10:06 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.Parker@oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Okay, great. Thanks Jeff. It is 116 **NORTH** Laurel St... not south. I think Mike has it down wrong.

See you on Monday.



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366

From: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Sent: Wednesday, November 10, 2021 9:59 AM
To: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Eric,

Thanks, we'll try to make the meeting, as they'll need City approval.

Jeff



Jeff Adams

Community Development Director
City of Cannon Beach

p: 503.436.8040 | tty: 503.436.8097 | f: 503.436.2050
a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110
w: www.ci.cannon-beach.or.us | e: adams@ci.cannon-beach.or.us

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

From: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Sent: Wednesday, November 10, 2021 9:34 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: FW: 116 S Laurel Street, Cannon Beach

Good morning Jeff,

Just an FYI, we're meeting with Mike McEwan about a new project proposal this coming Monday at 116 S Laurel St. See attached. We are meeting at Noon.

I wanted to give you a heads up is all. Feel free to join if you would like. I'll keep you in the loop on anything moving forward from OPRD.

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366
www.oregonstateparks.org

From: Mike McEwan <mmcewan3569@gmail.com>
Sent: Monday, November 8, 2021 11:40 AM
To: CRUM Eric * OPRD <Eric.CRUM@oregon.gov>
Subject: 116 S Laurel Street, Cannon Beach

Hello Eric,

Could we set up a time to review the attached project at 116 S Laurel Street, Cannon Beach?

Michael McEwan

President

Bob McEwan Construction, Inc. CCB 48302

503.440.0223 503.738.3569

mmcewan3569@gmail.com





CITY OF CANNON BEACH

January 5, 2021

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

Dear Property Owner,

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

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

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

Sincerely,

Katie Hillenhagen
Administrative Assistant

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

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

The Cannon Beach Planning Commission will hold a virtual public hearing on **Thursday, January 27th, 2022 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

AA 21-01, Remand of the Jeff and Jennifer Harrison appeal of the City's approval to issue a development/building permit for 544 N Laurel Street. The property is located at 544 N Laurel Street (Tax Lot 07000, Map 51019AD), and in a Residential Medium Density (R2) zone. The request will be reviewed pursuant to Municipal Code, Section 17.88.160, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance, conditions of approval of the Cannon Beach Preservation Planned Development Subdivision and approved plat.

AA 21-03, Dana Cardwell appeal of the City's administrative decision to approve development permit DP#21-23 for the Forest Lawn Right-of-Way for a stormwater pipe extension under Chapter 17.62 Grading, Erosion and Sedimentation Control. The proposed work is on the east side of Forest Lawn in front of Taxlot 510301A01100 in a Residential Medium Density (R2) zone. The appeal will be reviewed pursuant to Municipal Code, Section 17.92.010, Development Permits, Section 17.62 Grading, Erosion and Sedimentation Control, Review Consisting of Additional Evidence or de Novo Review and applicable sections of the zoning ordinance.

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit for shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a

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

reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Jeffrey Adams, 503-436-8040, or at adams@ci.cannon-beach.or.us.

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



Jeffrey C. Adams, PhD
Director of Community Development

Posted/Mailed: **January 5, 2022**

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

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

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

CU 21-03, Brown
116 N. Larch St.



CU 21-03, Brown
116 N Laurel St.

TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADDR	CITY	STATE	ZIP_CODE
51019DD03800	140 N Laurel St	Carlson Blake	14570 Clay St	Broomfield	CO	80023
51019DD03900	124 N Laurel St	St Mary Sisters Of	4440 SW 148th Ave	Beaverton	OR	97007-2745
51019DD04000	116 N Laurel St	Brown Jacqueline O	2235 SW 85th Ave	Portland	OR	97225
51019DD04500	158 N Larch St	Porter Elisabeth Scott	2746 SE 35th Ave	Portland	OR	97202
51019DD04502	150 N Larch St	Larch Street Investments LLC	235 SE Avondale Way	Gresham	OR	97080
51019DD04605	132 N Larch St	Coaster Properties LLC	9775 SW Barnes Rd #370	Portland	OR	97225
51019DD04601		Porter Elisabeth Scott	2746 SE 35th Ave	Portland	OR	97202
51019DD04602	116 N Larch St	Blackford Gabriel	3800 Bridgeport Way W Ste. #A #297	University Place	WA	98466
51019DD04604	152 N Larch St	Bellerby Linda J Trustee	111 SE 48th Ave	Portland	OR	97215
51019DD04800	172 W 1st St	Moore Anthony P 1/2	PO Box 2110	Fairview	OR	97024-1815
51019DD05000	123 N Laurel St	VP Getaway LLC	11335 SW Foothill Dr	Portland	OR	97225
51030AA00100	118 S Laurel St	Cannon Beach House LLC	14800 NE North Woodinville Way	Woodinville	WA	98072-4484
51030AA00200	132 S Laurel St	Thayer John A	4355 Silver Ct	Lake Oswego	OR	97035
51030AA00300	164 S Laurel St	Wells CB LLC	701 Briar Rd	Bellingham	WA	98225
51030AA00400	188 S Laurel St	Ramsey Hamide	13815 SE Rivercrest Dr	Vancouver	WA	98683
51030AA00900		Kent Francis D/Patricia H Tr	4706 SE Arden St	Milwaukie	OR	97222-5075
51030AA01000	171 W 1st St	Carey Glen D	PO Box 1013	Cannon Beach	OR	97110
51030AA01001	163 W 1st St	M-By-Sea LLC	4220 SW Charming Way	Portland	OR	97225
51030AA01100	191 W 1st St	Edwards-Thompson LLC	937 NW Glisan St #1431	Portland	OR	97209
51030AA01101	187 W 1st St	Mooing Cows LLC	204 N Norton Ave	Los Angeles	CA	90004
51030AA01200	195 W 1st St	Hutchins House LLC	6516 SE 39th Ave	Portland	OR	97202-7711
51030AA01300	131 S Laurel St	Walter House LLC	1731 SE 101st Ave	Portland	OR	97216-2509
51030AA01400	163 S Laurel St	Laurel Street Vacation Home LLC	762 Ave G	Seaside	OR	97138
51030AA01401	196 W Taft St	Stavig Prudence M	11695 SE 147th Ave	Happy Valley	OR	97086-5825
51030AA01500	184 W Taft St	Cousin Camp LLC	PO Box 151524	San Rafael	CA	94215
51030AA15300		Cannon Beach House LLC	19900 144th Ave NE	Woodinville	WA	98072-4460
51030AA15307		Kendall William D Jr	3058 SW Fairview Blvd	Portland	OR	97205-5829
51030AA01600	180 W Taft St	180 W Taft LLC	PO Box 213	Fox Island	WA	98333
51030AA01700	172 W Taft St	Baker Stockton	435 Humboldt St	Denver	CO	80218
51019DD04600	124 N Larch St	Sea Lark Apartments LLC	1643 S Radcliffe Ct	Portland	OR	97219



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **CU 21-04**, MICHAEL MORGAN, APPLICANT, ON BEHALF OF THE LBC TRUST, MARK SMITH, TRUSTEE, REQUESTS THE INSTALLATION OF A SHORELINE STABILIZATION STRUCTURE FOR THE PURPOSE OF EROSION CONTROL. THE PROPERTY IS LOCATED AT 4664 LOGAN LN. (TAXLOT# 41006CB03401) AND IS IN THE RESIDENTIAL LOWER DENSITY (RL) ZONING DISTRICT. IT IS ALSO IN THE OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE. THE CONDITIONAL USE REQUEST WILL BE REVIEWED AGAINST THE CRITERIA OF CANNON BEACH MUNICIPAL CODE, SECTIONS SECTION 17.42.060, STANDARDS FOR SHORELINE STABILIZATION IN THE OCEANFRONT MANAGEMENT OVERLAY ZONE; AND 17.80, CONDITIONAL USES.

Agenda Date: December 21, 2021 & January 27, 2022

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

Public notice for this December 21, 2021 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on November 29, 2021;
- B. Notice was mailed on November 29, 2021 to surrounding landowners within 250' of the exterior boundaries of the property.

DISCLOSURES

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

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 2, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Shoreline stabilization application #21-04, including photographs showing site conditions and location of the proposed stabilization project, applicant submitted, received December 2, 2021;
- A-2** Proposed Findings, with attached site photograph, applicant submitted, received December 3, 2021;
- A-3** January 20, 2022 email from Mike Morgan with additional project description language.

“B” Exhibits – Agency Comments

B-1 November 16, 2021 email from Eric Crum of Oregon Parks and Recreation Department regarding state requirements for shoreline stabilization improvement projects at 116 N. Laurel St.

“C” Exhibits – Cannon Beach Supplements

None

“D” Exhibits – Public Comment

None received as of this writing;

SUMMARY & BACKGROUND

The applicant, Mike Morgan, on behalf of property owner, The LBC Trust, Mark Smith, Trustee, requests a shoreline stabilization structure to prevent erosion from encroaching onto 4664 Logan Lane, as shown on the aerial photograph at the end of this staff report. The property is in the City’s Residential Lower Density (RL) zone as well as the Oceanfront Management Overlay (OM) Zone. The current request is evaluated against applicable standards in Cannon Beach Municipal Code (CBMC) chapter 17.42.060 Standards for shoreline stabilization structures in the Oceanfront Management Overlay (OM) zone; the conditional use permit criteria in CBMC 17.80; and applicable requirements of the Comprehensive Plan.

The applicant states that the subject property has experienced severe erosion over the previous two to three years due to king tides and storm surge events. Oregon Parks and Recreation Department representatives have suggested that any new stabilization structure take a more natural approach than the placement of rip-rap and proposed the placement of four to eight inch round cobbles at the base of the slope with sand fill. The proposed design would utilize this approach with the placement of no more than 50 cubic yards of cobbles immediately east of the Statutory Vegetation Line and then covered with sand. The sand would then be covered with natural jute netting and planted with willow stakes and European or American beachgrass for vegetative stabilization.

Adjacent properties have had similar shoreline restoration projects for erosion control purposes. Development Permit DP06-06 was issued in 2006 for the placement of a log support structure and repairs to existing rip-rap at 4624 and 4632 Logan Ln. Additional minor repairs to this shoreline stabilization structure were authorized in March 2021. The subject property at 4664 Logan Ln. shows significant erosion of the beach facing dune area in relation to the surrounding properties.

Installation of shoreline stabilization structures in the Oceanfront Management Overlay Zone is permitted under CMBC 17.42.030.C.1 subject to the provisions of 17.80.230. Approval requirements are excerpted in this staff report.

Applicable Criteria

The Cannon Beach Municipal Code (CBMC) requires all shoreline stabilization structures apply for a conditional use permit in the RL and Oceanfront Management zoning districts that make up the subject property.

Cannon Beach Municipal Code defines shoreline stabilizations structures as:

17.04.520 Shoreland stabilization.

“Shoreland stabilization” means the protection of the banks of tidal or inter-tidal streams, rivers, estuarine waters and the oceanfront by vegetative or structural means.

Oceanfront Management (OM) Zone Requirements

17.42.020.A.2.B Relationship to the Underlying Zone.

Uses and activities within the OM zone are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this zone and the underlying zone conflict, the provisions of this zone shall apply.

Staff Comment: The underlying zone is Residential Lower Density (RL) and shoreline stabilization, whether through vegetation or structural is a conditionally permitted use in 17.10.030.D.

17.42.030.C Uses Permitted in the OM Zone

C. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.80, Conditional Uses:

- 1. Shoreline stabilization, subject to the provisions of Section 17.80.230;*
- 2. Nonstructural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5);*
- 3. Preservation grading, subject to the provisions of Section 17.42.060(A)(3);*
- 4. Remedial dune grading, subject to the provisions of Section 17.42.060(A)(4).*
- 5. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access.*

Staff Comment: Conditional approval of shoreline stabilization is permitted on lots that consist of beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding. The property is subject to tidal events such as king tides and storm surges that are undercutting the existing foredune and may allow for water ingress that would undercut adjacent stabilization structures from the rear. The applicant provides a description of a non-structural shoreline stabilization project, which specifies under 50 cubic yards of cobble and doesn't specify if any sand would be moved during the project. Each of these activities, shoreline stabilization, nonstructural shoreline stabilization and preservation grading, are regulated through the conditional use permit process. Meets criteria.

17.42.060.A.5 Nonstructural Shoreline Stabilization

- 5. Nonstructural Shoreline Stabilization Program.*
 - a. The program is prepared by a qualified individual approved by the city. The program shall be based on an analysis of the area subject to accretion and/or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.*
 - b. The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.*

- c. *Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.*
- d. *Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.*
- e. *The affected property owners shall establish a mechanism that provides for the on-going management of the proposed program.*
- f. *The impact of the program shall be monitored. For multiyear programs, an annual report detailing the effects of the program during the previous year shall be presented to the planning commission. The report shall include recommendations for program modification. For a one-year program, a final report detailing the effects of the program shall be presented to the planning commission.*
- g. *Areas that accrete as the result of a stabilization program will not form the basis for reestablishing the location of the building line specified by Section 17.42.050(B)(3).*

Staff Comment: The proposed stabilization project is designed to be an alternative to the structural placement of rip-rap or other constructed barrier and will be covered with sand fill material that will have planted vegetation to provide surface cover and provide additional stability. The 'qualified individual' as outlined by the criteria does not give suggested qualifications or criteria for such a determination. There is no indication whether sand will be graded or if there will be fill necessary to establish the vegetation. If over fifty cubic yards are to be moved, the preservation grading standards, CBMC 17.42.060(A)3, copied below, should be considered in review. As the applicant states, there will be no plantings within 25 feet of existing structures and thus fire-resistant species are not a point of concern. The application proposes jute material in efforts to establish vegetation, rather than fencing. The site should be monitored yearly by the applicant and provided to the City as documentation as a condition of approval. The proposed design is consistent with surrounding conditions and is intended to restore the foredune to a more natural appearing state. Meets criteria upon condition of approval #2. If the applicant

Conditional Uses for Shoreline Stabilization

17.80.110 Conditional Use Approval Standards

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

- A. *A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.*
- B. *The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.*
- C. *The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.*
- D. *The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.*
- E. *An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by city ordinances or desired*

by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

F. The site and building design ensure that the use will be compatible with the surrounding area.

Staff Comment: The application indicates that the project is necessary to counter the rate of erosion being seen at the subject property and restore material that has been removed by tidal and storm surge events, the project will also allow for the property to be restored to a visual appearance similar to that of adjacent properties. Additionally, the project will allow for the protection of adjacent shoreline stabilization structures by preventing tidal ingress that could cause erosion from the rear. Access to the project site would be from the Tolovana ramp at Warren Way, no trucks or equipment would be on Logan Ln. at any time. The applicant indicates that a permit from Oregon State Parks will be obtained prior to commencing work. Meets criteria.

17.80.230.C Shoreline Stabilization Standards

The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

Staff Comment: Due to the project's location on the border of the state vegetation line, the project will require coordination with the Oregon Parks and Recreation Department. The application states that this permit will be obtained prior to commencement of work. State requirements, as found in Exhibit B-1, include the following:

Allowance to place up to 50 cubic yards of natural material on the ocean shore through a free drive on the beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles four to eight inches in size. Any imported sand must be clean and free from any contaminant or seed. Cobble cannot be quarried or angular rock and must match, as closely as possible, naturally occurring cobble present at the work site location.

Any proposed dynamic revetment such jute matting or planting, using more than 50 cubic yards of sand, or building a cobble revetment project using more than 50 cubic yards of material requires the approval of a Shoreline Alteration Permit from Oregon Parks and Recreation Department.

The application does not describe the source of sand to be used as fill in the project. Any grading done to generate fill material shall be subject to condition three detailed in the conditions of approval.

The project as described does not appear to exceed the 50 cubic yard threshold and thus meets criteria.

17.80.230.D.1 Shoreline stabilization priorities

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:

- a. Proper maintenance of existing riparian vegetation;*
- b. Planting of riparian vegetation;*
- c. Vegetated rip-rap;*
- d. Nonvegetated rip-rap;*
- e. Bulkhead or seawall.*

Staff Comment: The applicant's proposal is described as a small cobble berm consisting of four to eight inch round cobbles with imported sand fill that would then be covered with jute netting with willow stakes and American or European beach grass planted through the netting. According to the applicant the design was suggested by Oregon State Parks as an alternative to non-vegetated rip rap. Meets criteria.

17.80.230.E.1 Qualifications for Beachfront Protection

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

- a. There is a critical need to protect property that is threatened by erosion hazard;*

- b. Impacts on adjacent property are minimized;*
- c. Visual impacts are minimized;*
- d. Access to the beach is maintained;*
- e. Long-term or recurring costs to the public are avoided; and*
- f. Riparian vegetation is preserved as much as possible.*

Staff Comment: Although no statement from an engineer has been provided, application materials indicate that structures on the property may be threatened in the near future if the rate of erosion continues unchecked. At present the eroded section allows for water ingress that may undercut adjacent stabilization structures and creates a visual impact due to its difference from the surrounding area. The project would allow for the dune to be returned to a more natural state, visually consistent with surrounding properties. There should be no impacts to beach access or recurring costs to the public, and the proposed planting of willows and beach grasses, if allowed to establish, should provide stability to the eroding dunes. Meets criteria upon condition of approval #2.

17.80.230.I Minimum Level of Protection Limitation

The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

Staff Comment: The project as described does not appear to exceed the original footprint of the beach facing yard and natural dune area. Meets criteria.

Staff Recommendation

Staff recommends approval of this Conditional Use Permit for nonstructural shoreline stabilization subject to the conditions outlined in the decision below.

Procedural Requirements

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. It was submitted December 2, 2021; and determined to be complete on December 2, 2021. Based on this, the City must make a final decision before March 2, 2022.

The Planning Commission's December 21st meeting will be the first evidentiary hearing on this revised request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission's next regularly scheduled hearing date is January 27th.

DECISION, CONDITIONS AND FINDINGS

Motion: Having considered the evidence in the record, I move to (approve/approve with conditions/or deny) the conditional use request for the construction of a structural shoreline stabilization of **CU# 21-04** as discussed at this public meeting (subject to the following conditions):

1. The applicant shall coordinate this project with Oregon Parks and Recreation Department and obtain all permits required for this work including beach access for vehicles.
2. Planning Commission provides preferred vegetation planting guidance as per Foredune Management Plan 2018 revision Vegetation Planting Specifications language (pg. 18).

3. Any preservation grading shall be subject to the following conditions:

- Areas of sand removal covered under this permit are ocean front and side yards within 35 feet of the foundation of the structure and an area of no more than 12 feet in width west of the established fence line west of the structure to allow use of heavy equipment for sand removal.
 - Sand removed from this area to be placed back in the sand/beach system in the areas indicated on the attached map. The intent of this requirement is to place sand over the edge of the sand bluff onto the tide washed area of the beach.
 - Sands which are mixed with soils, gravel or non-beach vegetation are to be removed from the area and disposed of off-site.
 - Moving of sand to the placement area shall take place along routes between the sand/grass mounds indicated. Routes of travel should be in a manner which does not damage existing beach grass or disturb areas west of the 12-foot removal area.
 - Before any work is performed with power equipment in the above area the City shall be given at least 48-hours notice prior to commencing work. Any vehicle access permits for operation west of the zone line shall be obtained.
 - When hand or manual removal of more than 5 yards is to take place the City shall be given at least 48-hours notice prior to commencing work and City will have on-site representation for monitoring activities.
4. Yearly monitoring of the area, by photographic documentation, provided to the City by the applicant.

Preservation Grading Specific Standards, if applicable

CBMC 17.42.060(A)3. Preservation Grading. Grading or sand movement necessary to repair blow-outs, erosion or maintain public access or facilities, which may be allowed in active dune areas only if the area is committed to development and meeting the requirements of Comprehensive Plan Foredune Management Policy. Preservation Grading does not include grading necessary for the repair, maintenance or installation of stormwater outfalls or facilities, including infiltration and water quality systems. Preservation Grading Conditional Use Permit requests for preservation grading shall include the following information:

- a. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one-hundred year flood elevation established in the "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated June 20, 2018; plus an additional one vertical foot safety buffer for predicted sea level rise. The minimal cross-section area that must be maintained is one thousand one hundred square feet of dune above the stillwater flood elevation.
- b. Identify and set priorities for low and narrow dune areas which need to be built up.
- c. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities. Placement of sand on the beach may be permitted as part of a foredune grading permit if sand deposition does not exceed a depth of twelve centimeters. Placement of sand along the seaward face of the dune may be permitted as part of a foredune grading plan if the resulting slope is no steeper than twenty-five to thirty-three percent.
- d. The cumulative volume of proposed grading.

e. Preservation grading plans shall be submitted to the soil and water district for their comments and any necessary permits shall be obtained from the Oregon State Parks and Recreation.

f. A monitoring plan. Monitoring is mandatory, and the responsibility of the permit holder. Annual monitoring reports are required for the first and second years following grading activities, and may be requested by the planning commission for subsequent years. Monitoring reports shall include:

- I. The area, volume, and location of grading;
- II. The area(s) where graded sand was deposited;
- III. Erosion control measures;
- IV. Revegetation measures;
- V. Impacts on wildlife habitat, including razor clam habitat;
- VI. Any other requirements of the approved grading plan; and
- VII. Any conditions of approval imposed by the planning commission.

The city shall retain the services of independent outside experts, at the expense of the permit holder, to review monitoring report and to make recommendations to the city for corrective actions or for future grading, disposition, and revegetation activities. The monitoring report may be included in the review, if conducted by an agreed upon outside expert, at the expense of the permit holder and contracted by the city. Failure to submit the required monitoring reports will result in a penalty and will prevent future grading permits to be issued for the area for a period of five years beginning after the monitoring reports are brought up to date.

g. Permits for preservation grading shall not be approved unless they comply with applicable policies of the Comprehensive Plan, including Sand Dune Construction and Fore-dune Management Policies.

h. Permits for preservation grading may be approved if the Planning Commission finds all of the following criteria have been met:

- I. The proposal achieves a balance of these four objectives:

(A) To ensure the dunes sustain an adequate sand volume in order to withstand the erosional effects of (an) extreme storm(s) and to minimize any potential for wave overtopping and inundation (flooding) of backshore.

(B) To strengthen weak points in the dune system (e.g., adjacent to trails), by repairing areas subject to localized blowouts from wind or waves in order to prevent the dune buffer from erosion and potentially being breached during a storm.

(C) To maintain valuable habitat for a wide range of plants and animals, such as shellfish, including razor clams, and in some cases rare species.

(D) To maintain the integrity and natural beauty of the dunes, while providing for the necessary functions of public access, facilities and utilities.

II. The annual cumulative volume of preservation grading does not exceed two thousand five hundred cubic yards.

III. The preservation does not remove sand from the beach-fore-dune system.

IV. The preservation grading sand deposition area will not impact adjoining property.

i. Revegetation of graded areas is mandatory. This can be accomplished with a combination of European Beach grass (*A. arenaria*); non-native American dune grass (*A. breviligulata*); the PNW native dune grass (*E. mollis*); or another revegetation plan approved by the planning commission. Graded areas shall be stabilized immediately after grading. Where immediate revegetation is not possible, or where revegetation fails, temporary erosion control measures shall be implemented until revegetation can be completed. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures, but

fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

j. Maintenance activities not requiring a separate administrative permit under the approved conditional use permit may include:

- I. Additional plantings or certified organic fertilizer applications in areas where plantings performed poorly.



Site Location Map



Oceanfront Management Zone Overlay and Vegetative Line



CITY OF CANNON BEACH

CONDITIONAL USE APPLICATION

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

Applicant Name: Mike Morgan
 Email Address: hminc@pacifier.com
 Mailing Address: PO Box 132 Cannon Beach, OR 97110

Telephone: 503 739 0102

Property-Owner Name: The LBC Trust, Mark Smith, Trustee
 (if other than applicant)

Mailing Address: PO Box 340020 Nashville, TN 37203-00223

Telephone: _____

Property Location: 4664 Logan Ln

Map No.: 4 10 6CB Tax Lot No.: 3401

CONDITIONAL USE REQUEST:

1. Description of the proposal.

The property has been eroding severely over the last two or three years due to king tides and storm surge events as shown on the attached photos. Despite evidence that there was a rip rap wall on the property at one point, Oregon State Parks representatives have suggested a less aggressive approach by placing a small cobble berm consisting of 4"-8" round cobbles at the base of the slope with imported sand fill above for approximately 50 lineal feet. The sand would then be covered with natural jute netting and willow stakes would be planted through the netting in January or February, which is the recommended period for propagation. This method has been used successfully in other locations along the oceanfront in Cannon Beach and elsewhere. Other vegetation including European and American beachgrass may also be added to stabilize the sand and discourage people from playing on the dune.

2. Justification of the conditional use request. Explain how the request meets each of the following criteria for granting a conditional use.

- a. Explain how a demand exists for the use at the proposed location. Several factors which should be considered include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites, particularly those not requiring conditional use approval; and the desirability of other suitably zoned sites for the use.

The erosion has become severe in the last several years, and is anticipated to increase as ocean levels rise due to climate change.

- b. Explain in what way(s) the proposed use will not create traffic congestion on nearby streets or over-burden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

There will be no impact on traffic congestion. All work would be carried out from the beach with an excavator and dump trucks. There is no impact on any other public services.

- c. Show that the site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by City Ordinances or desired by the applicant.

The erosion is causing significant loss of the front yard of the property.

- d. Show that the topography, soils, and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils must be shown to be eliminated or reduced to the extent necessary for avoiding hazardous situations.

Although the house above as shown in the photograph is built on a Marine Terrace formation, the dune has until recently protected the property from further erosion. It is estimated that the dune has lost +-20 feet per year in the last two years. If this continues the foundation of the house will be threatened in five years. While rip rap has been successfully utilized in other locations along the Tolovana ocean front, it has been determined that this approach would be a first step toward stabilization.

- e. Explain in what way an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by City ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

Access to the project will be from the Tolovana ramp at Warren Way. No trucks or equipment will be on Logan Lane at any time. The project will be short term (less than one week) and will be done in January when there is very little use of this area of the beach. A permit from Oregon State Parks will be obtained prior to commencing work.

- f. Explain how the proposed site and building design will be compatible with the surrounding area.
There is no building involved. The attached photos show the site design.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure, and dimensions of proposed development.

Application Fee: \$750.00

Applicant Signature: _____
 Property Owner Signature: _____

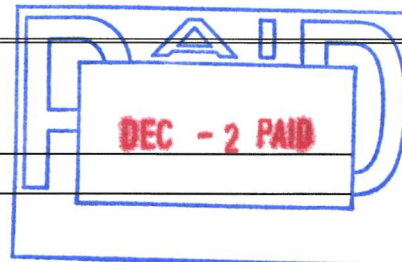
DocuSigned by:
 EC69188E6D194C4...

Date: _____
 Date: 11/22/2021

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

For Staff Use Only:

Date Received: _____ By: _____
 Fee Paid: _____ Receipt No.: _____
 (Last revised March 2021)



CONDITIONAL USE PERMIT - GENERAL INFORMATION

What is a Conditional Use Permit?

Land use on all property in Cannon Beach is governed by zoning districts established by the City Council. Cannon Beach has two main types of zoning districts: residential and commercial. Within each of these main categories there are specific zoning districts, such as Medium Density Residential, R-2, and High Density Residential, R-3. Every zoning district has a list of permitted uses and a list of uses that are only allowed after being approved for a conditional use permit. For example, on property zoned R-2, Medium Density Residential, a single-family dwelling is allowed outright, but a church would be allowed only if approved under a conditional use permit.

The Purpose of Conditional Use Permits

Certain uses by their very nature need special consideration before they can be allowed in a particular zoning district. The reasons for requiring such special consideration involve, among other things, the size and intensity of the use, traffic generated by the use and compatibility of the use with the area. These issues are addressed through the conditional use permit process which involves a public hearing before the Planning Commission.

Application and Processing.

If the use you wish to establish on your property requires a conditional use permit, the first step is to informally discuss your proposal with the City Planner. Applications may be submitted by the property owner or an authorized agent. An application should include a detailed statement of the proposed use and a plot plan showing the development of the site. After you submit a completed application, accompanied by a fee to help defray the cost of processing, the City will begin processing your conditional use application.

Public Hearing - Planning Commission.

Conditional use permit requests are considered by the Cannon Beach Planning Commission at a public hearing. Hearings for conditional use permits will be held within 40 days after the application is submitted. Notice of the hearing is mailed to the applicant and to property owners with 250 feet of the site in question. Prior to public hearing, the City Planner will prepare a written report on the request. The report will contain the background of the request and a recommendation based on an investigation of the facts of the proposal and

how they pertain to the criteria for granting a conditional use permit. A copy of the report will be mailed to the applicant. Anyone interested in the application may request a copy of the report. At the public hearing, the property owner desiring the conditional use permit has the burden of establishing that the requested conditional use meets the criteria in the Zoning Ordinance. Other people will be given the opportunity to speak in favor of the request, offer comments, ask questions, and/or speak in opposition. At the end of the hearing, the Planning Commission will approve, approve with conditions, or deny the conditional use request.

Appeals to the City Council.

Appeals of the Planning Commission action must be made within 20 days of the decision. The basis of the written appeal must be that the Planning Commission made an error in its decision. The applicant may ask for a new hearing before the City Council or request that the City Council review the Planning Commission record established in making its decision. The City Council may either uphold, reverse or place conditions upon the Planning Commission decision.

GOSSARD PROPERTY

JUTE
NETTING
& WILLOW
STAKES

PROPOSED COBBLE BERM - 50 CY 4" TO 8" ROUND COBBLES

GOSSARD PROPERTY



Revised Findings of Fact for 4664 Logan Lane – Gossard Property

CONDITIONAL USE REQUEST:

1. Description of the proposal.

The property has been eroding severely over the last two or three years due to king tides and storm surge events as shown on the attached photos. Despite evidence that there was a rip rap wall on the property at one point, Oregon State Parks representatives have suggested a more natural approach by placing a small cobble berm consisting of 4"-8" round cobbles at the base of the slope with imported sand fill above for approximately 50 lineal feet. Oregon State Parks requires that no more than 50 cubic yards of cobbles be placed along the State Vegetation Line (aka the Oregon Coordinate Line). East of the line the sand would then be covered with natural jute netting. Willow stakes would be planted through the netting in January or February, which is the recommended period for propagation. This method has been used successfully in other locations along the oceanfront in Cannon Beach and elsewhere. It would also discourage people from climbing the dune and eroding it further. Other vegetation including European and American beachgrass may also be added to stabilize the sand. Eventually the willows and grasses will form a dense grove which will catch sand blowing from the south during winter storms and the dune will be restored.

2. Justification of the conditional use request. Explain how the request meets each of the following criteria for granting a conditional use.

- a. Explain how a demand exists for the use at the proposed location. Several factors which should be considered include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites, particularly those not requiring conditional use approval; and the desirability of other suitably zoned sites for the use.

The erosion has become severe in the last several years, and is anticipated to increase as ocean levels rise due to climate change. The erosion is undermining the property to the north (El-Mansy) which was established last year, and also consists of cobbles and willows behind a log barrier.

- b. Explain in what way(s) the proposed use will not create traffic congestion on nearby streets or over-burden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

There will be no impact on traffic congestion. All work would be carried out from the beach with an excavator and dump trucks. There is no impact on any other public services.

- c. Show that the site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which

are required by City Ordinances or desired by the applicant.

The erosion is causing significant loss of the front yard of the property. It is estimated that twenty feet of the dune has been washed away in the last year.

- d. Show that the topography, soils, and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils must be shown to be eliminated or reduced to the extent necessary for avoiding hazardous situations.

Although the house above as shown in the photograph is built on a Marine Terrace formation, the dune has until recently protected the property from further erosion. It is estimated that the dune has lost +/-20 feet per year in the last two years. If this continues the foundation of the house will be threatened in five years. While rip rap may be preferable, it has been determined that this approach would be a first step toward stabilization.

- e. Explain in what way an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by City ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

Access to the project will be from the Tolovana ramp at Warren Way. No trucks or equipment will be on Logan Lane at any time. The project will be short term (less than one week) and will be done in January when there is very little use of this area of the beach. A permit from Oregon State Parks will be obtained prior to commencing work.

- f. Explain how the proposed site and building design will be compatible with the surrounding area.

There is no building involved. The attached photos show the site design.

Untitled Map

Write a description for your map.

GOSARD PROJECT

CORBLE
BERM

WILLOW
PLANTING

STATE VEGETATION LINE

4664 Logan Ln

Logan Ln

Logan Ln

Legend

- 4664 Logan Ln
- Feature 1
- Feature 2

Google Earth

100 ft



6/2015

Robert St. Clair

From: mike morgan <hminc@pacifier.com>
Sent: Thursday, January 20, 2022 10:17 AM
To: Robert St. Clair
Cc: newtgoss2@gmail.com
Subject: Additional findings for 4664 Logan Ln

To: Robert St.Clair, Associate Planner, City of Cannon Beach

From : Mike Morgan, Planning Consultant

Re: Additional findings for 4664 Logan Ln

Please include the following in the record for the January 27 Planning Commission hearing.

- A. Beachfront protective structures seaward of the Oregon Coordinate Line, require a permit from the Oregon Parks and Recreation Department and the city. Beachfront protective structures landward of the Oregon Coordinate Zone Line requiring more than fifty cubic yards of material may require a permit under the Oregon Removal Fill Law. All beachfront protective structures landward of the Oregon Coordinate Line require a permit from the city.

The "cobble berm" is westward of the Oregon Coordinate Line, and will be 50 cubic yards as shown on the photo. Permits from the OPRD will be obtained by the contractor, McEwan Construction. The work east of the line will consist of jute netting and willow stakes to stabilize the dune. No rock or other "hard" material will be placed east of the OCL. This approach was recommended by the Oregon State Parks planner as an alternative to rip rap. Cobble berms have also been recommended by other groups where structures are not in immediate danger of collapse and rip-rap is not warranted.

D. Shoreline Stabilization Priorities.

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:
 - a. Proper maintenance of existing riparian vegetation;
 - b. Planting of riparian vegetation;
 - c. Vegetated rip-rap;
 - d. Nonvegetated rip-rap;
 - e. Bulkhead or seawall.

*The cobble berm is not mentioned in the list of priorities, but should be considered in the first two items above. Cobbles are common and present on the beach nearby and are considered by OPRD to be a natural addition to the beach, unlike rip rap. The proposal includes the planting of willows (*Salix hookeri*) among the cobbles and above on the dune, along with jute netting. As the willows grow the netting will not be visible and will deteriorate within a couple of years.*

2. Where rip-rap, bulkheads or seawalls are proposed as protective measures, evidence shall be provided that high priority methods of erosion control will not work.

No rip-rap, bulkhead or seawall is proposed. The cobble berm is a natural alternative to these methods.

E. Qualifications for Beachfront Protection.

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

- a. There is a critical need to protect property that is threatened by erosion hazard;

The property has eroded significantly in recent years, including the loss of access stairs and several feet of dune, exacerbated by the king tides in recent months.

- b. Impacts on adjacent property are minimized;

The property owner to the north, El-Mansy, is supportive of this proposal since erosion at 4664 Logan Ln has undermined the south end of his log/cobble/willow structure. Other neighbors along the oceanfront are supportive.

- c. Visual impacts are minimized;

The imported cobbles are the same as the other cobbles on the beach. The willows are present along this area in abundance. Visual impacts will be minimized.

- d. Access to the beach is maintained;

Access to the beach is north of the proposed site approximately 200 feet.

- e. Long-term or recurring costs to the public are avoided; and

The work will be funded by the owners of 4664 Logan Ln, and will be continuously maintained by them. There will be no costs to the public.

- f. Riparian vegetation is preserved as much as possible.

The intent is to plant riparian vegetation up the dune 20-30 feet. This approach has been successful immediately north and in other locations in the city. Hooker willows will be planted on 12-18" centers and fertilized, and if necessary irrigated for the first year. It is important to plant willows in the early spring for maximum viability.

2. These criteria shall apply to structural shoreline stabilization both east and west of the State Zone Line.

F. Beachfront protective structures for beach and dune areas shall be permitted only where development existed on January 1, 1977. "Development" means houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Goal 18 exception has been approved. Notwithstanding that the comprehensive plan and a map made part of the ordinance codified in this title identify property where development existed on January 1, 1977, owners whose property is identified as undeveloped on January 1, 1977 shall have a right to a hearing as provided in Chapter 17.88, as amended, to determine whether development did or did not exist on the property on January 1, 1977.

The house at 4664 Logan Ln was built prior to 1977.

View

Robert St. Clair

From: Jeffrey Adams
Sent: Monday, December 13, 2021 11:11 AM
To: Robert St. Clair
Subject: FW: 116 N Laurel Street, Cannon Beach
Attachments: BPFindings.pdf

Robert,

This is the email that outlines the State's permitting requirements for shoreline stabilization. You could use this in your staff report. I found this CUP from Breakers Point that you might have a look at.

Jeff



Jeff Adams

Community Development Director

City of Cannon Beach

p: 503.436.8040 | **tty:** 503.436.8097 | **f:** 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: www.ci.cannon-beach.or.us | **e:** adams@ci.cannon-beach.or.us

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

From: CRUM Eric * OPRD <Eric.CRUM@opr.d.oregon.gov>
Sent: Tuesday, November 16, 2021 11:03 AM
To: Mike McEwan <mmcewan3569@gmail.com>; Karen La Bonte <labonte@ci.cannon-beach.or.us>; Trevor Mount <mount@ci.cannon-beach.or.us>; Bruce St. Denis <stdenis@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.d.oregon.gov>; Jeffrey Adams <adams@ci.cannon-beach.or.us>; TAYLOR Trevor * OPRD <Trevor.TAYLOR@opr.d.oregon.gov>
Subject: RE: 116 N Laurel Street, Cannon Beach

Mike, Karen, Trevor, and Bruce,

Thank you for taking the time to meet with us yesterday. I'm including a brief recap here on what we discussed for the 116 N Laurel St project. I will follow-up with a subsequent email concerning the city's outflow pipes and that permit process moving forward.

We discussed a few potential options for working on the ocean shore in this location:

1. You are allowed to place up to 50 cubic yards of natural material on the Ocean Shore through a free drive on beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles 4"-8" in size. If using driftwood, it cannot be structurally engineered, but simply placed on the ocean shore. Any imported sand would have to be clean and free from any contaminant or seed. The river cobble cannot be quarried rock, nor can it be angular. The cobble must match, as closely as possible, the naturally occurring cobble currently present in the location. The free Drive on Beach permit application can be found here: <https://stateparks.oregon.gov/index.cfm?do=visit.dob-form>

2. Any proposed dynamic revetment (i.e., jute matting and planting), using more than 50 yards of sand, or building a larger cobble revetment project using more than 50 cubic yard of material would require a complete and approved Shoreline Alteration Permit. That permit application can be found here (<https://www.oregon.gov/oprd/prp/pages/per-ocean-shore.aspx>) and here: (https://www.oregon.gov/oprd/PRP/Documents/PRP_PER_OS_SPS_form.pdf). There is a cost associated with this, as well as a public-comment notification period. In section 1, they would choose "Other." Please note that if the project is more than 50 feet in length, it would require a geologic report from a registered professional geologist and a completed Analysis of Hazard Avoidance. Also note that this permit requires the attached City/County Planning Department Affidavit (pg.9) to be completed and signed off/approved by the local planning official, in this case it would be from the City of Cannon Beach.
3. A permanent riprap revetment or seawall would also be obtained through the same Shoreline Alteration Permit, including the same requirements as mentioned above in number 2. A brief check of the Coastal Atlas reference map (<https://www.coastalatlant.net/oceanshores/>), indicates that the property is potentially eligible for a beachfront protective structure. Again, this would have to be verified and approved by the City of Cannon Beach and Clatsop County.

As we observed at the site, there are at least 2 pipes currently exposed and draining onto the ocean shore from this property. Any drainage or water outflow that occurs west of the Statutory Vegetation Line, would also have to be addressed and included in the proposed project application for the Shoreline Alteration Permits.

If you have any further question regarding this project, and these options, please feel free to reach out. My contact information is provided below.

Best,

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366
www.oregonstateparks.org

From: CRUM Eric * OPRD
Sent: Wednesday, November 10, 2021 10:06 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.Parker@oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Okay, great. Thanks Jeff. It is 116 **NORTH** Laurel St... not south. I think Mike has it down wrong.

See you on Monday.



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366

From: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Sent: Wednesday, November 10, 2021 9:59 AM
To: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Eric,

Thanks, we'll try to make the meeting, as they'll need City approval.

Jeff



Jeff Adams

Community Development Director
City of Cannon Beach

p: 503.436.8040 | tty: 503.436.8097 | f: 503.436.2050
a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110
w: www.ci.cannon-beach.or.us | e: adams@ci.cannon-beach.or.us

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From: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Sent: Wednesday, November 10, 2021 9:34 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: FW: 116 S Laurel Street, Cannon Beach

Good morning Jeff,

Just an FYI, we're meeting with Mike McEwan about a new project proposal this coming Monday at 116 S Laurel St. See attached. We are meeting at Noon.

I wanted to give you a heads up is all. Feel free to join if you would like. I'll keep you in the loop on anything moving forward from OPRD.

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366
www.oregonstateparks.org

From: Mike McEwan <mmcewan3569@gmail.com>
Sent: Monday, November 8, 2021 11:40 AM
To: CRUM Eric * OPRD <Eric.CRUM@oregon.gov>
Subject: 116 S Laurel Street, Cannon Beach

Hello Eric,

Could we set up a time to review the attached project at 116 S Laurel Street, Cannon Beach?

Michael McEwan

President

Bob McEwan Construction, Inc. CCB 48302

503.440.0223 503.738.3569

mmcewan3569@gmail.com



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

The Cannon Beach Planning Commission will hold a virtual public hearing on **Thursday, January 27th, 2022 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

AA 21-01, Remand of the Jeff and Jennifer Harrison appeal of the City's approval to issue a development/building permit for 544 N Laurel Street. The property is located at 544 N Laurel Street (Tax Lot 07000, Map 51019AD), and in a Residential Medium Density (R2) zone. The request will be reviewed pursuant to Municipal Code, Section 17.88.160, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance, conditions of approval of the Cannon Beach Preservation Planned Development Subdivision and approved plat.

AA 21-03, Dana Cardwell appeal of the City's administrative decision to approve development permit DP#21-23 for the Forest Lawn Right-of-Way for a stormwater pipe extension under Chapter 17.62 Grading, Erosion and Sedimentation Control. The proposed work is on the east side of Forest Lawn in front of Taxlot 510301A01100 in a Residential Medium Density (R2) zone. The appeal will be reviewed pursuant to Municipal Code, Section 17.92.010, Development Permits, Section 17.62 Grading, Erosion and Sedimentation Control, Review Consisting of Additional Evidence or de Novo Review and applicable sections of the zoning ordinance.

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit for shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a

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reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Jeffrey Adams, 503-436-8040, or at adams@ci.cannon-beach.or.us.

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



Jeffrey C. Adams, PhD
Director of Community Development

Posted/Mailed: **January 5, 2022**



CITY OF CANNON BEACH

November 29, 2021

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

Dear Property Owner,

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

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

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

Sincerely,

Katie Hillenhagen
Administrative Assistant

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

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

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CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

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The Planning Commission reserves the right to continue the hearing to another date and time. If the hearing is continued, no further public notice will be provided. The hearings are accessible to the disabled. Contact City Manager, the ADA Compliance Coordinator, at (503) 436-8050, if you need any special

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accommodations to attend or to participate in the meeting. TTY (503) 436-8097. Publications may be available in alternate formats and the meeting is accessible to the disabled.



Jeffrey C. Adams, PhD
Director of Community Development

Posted/Mailed: **November 29, 2021**

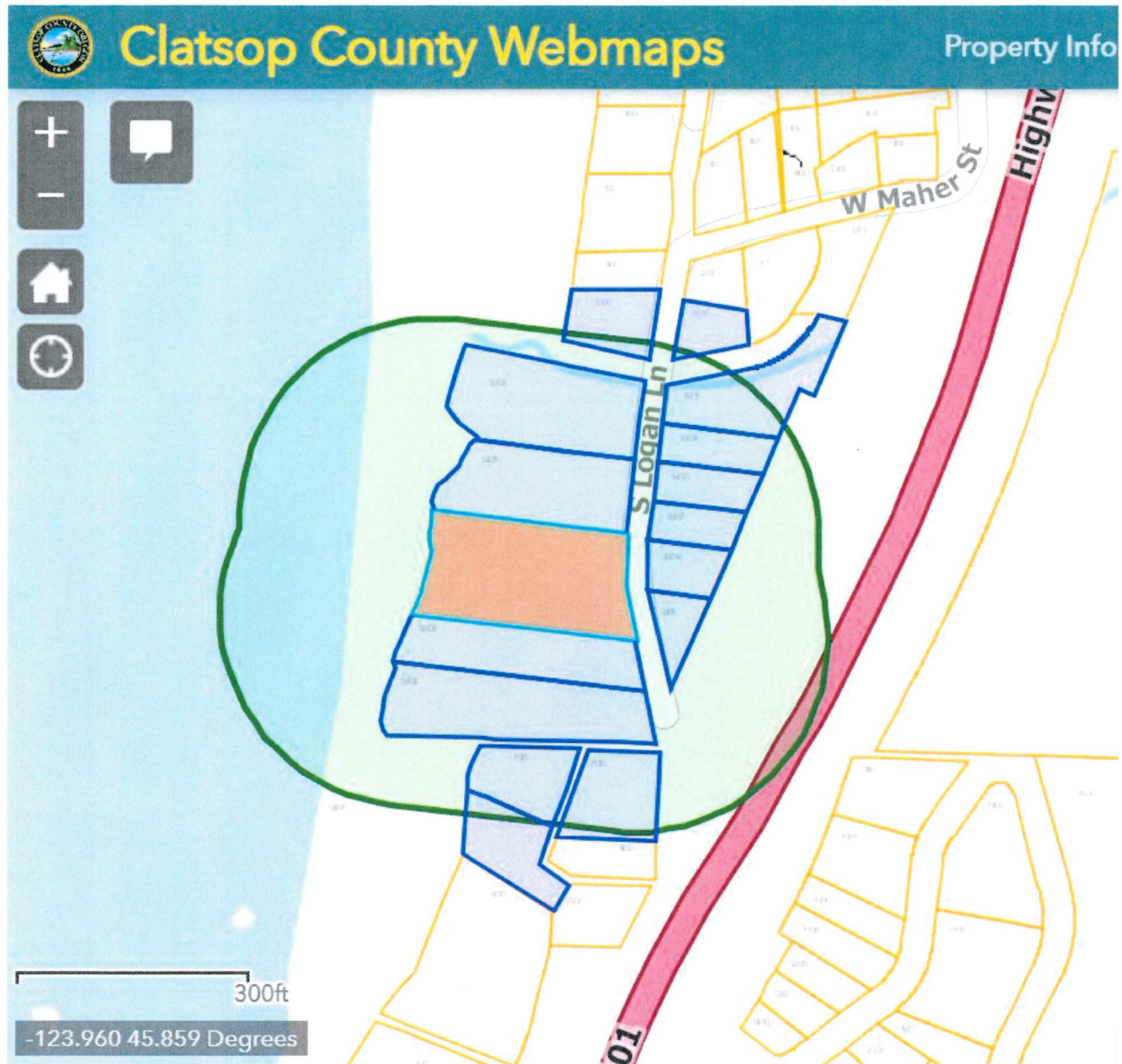


**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

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

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

CU21-04, LBC Trust
4664 Logan Lane



CU21-04, LBC Trust
4664 Logan Lane

OWNER_LINE	Owner Line 1	Owner Line 2	STREET_ADD PO Box PO Box Number CITY STATE ZIP_CODE
Kramer Cathleen C	Collins Richard P	Collins Michael S	9167 Belted Kingfisher Rd Blaine, WA 98230
Hawkins Shane R	Kats Jeana B		210 NE Laurelhurst Pl Portland, OR 97232
Billett	Julie & Kurt		17014 NE 152nd St Woodinville, WA 98072
Renard Jacques/Michelle	Renard Kathryn Le		14895 S Redland Rd Oregon City, OR 97045
Sandy Feet LLC			1681 NW Vicksburg Ave Bend, OR 97701-1435
El-Mansy Family LLC			18820 SW Gassner Rd Aloha, OR 97007
Dinsdale Grace K	Thomas Raymond F		PO Box 447 Cornelius, OR 97113
Heidi Hanson	Andrea Davidson		13465 NW Overton St Portland, OR 97229
Smith Mark Trustee	LBC Trust The		PO Box 340020 Nashville, TN 37203-0020
Peterson Robert B/Mary Ann			PO Box 85 Tolovana Park, OR 97145



Cannon Beach Planning Commission

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **CU 21-05**, MARTIN & MAXINE SIEGEL LIVING TRUST, APPLICATION, REQUESTS THE INSTALLATION OF A SHORELINE STABILIZATION STRUCTURE AND SAND FILL FOR THE PURPOSE OF EROSION CONTROL. THE PROPERTY IS LOCATED AT 3915 OCEAN AVENUE. (TAXLOT# 41006BC00400) AND IS IN THE RESIDENTIAL MODERATE DENSITY (R1) ZONING DISTRICT. IT IS ALSO IN THE OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTIONS 17.80.110 AND 17.80.230, SHORELINE STABILIZATION, PROVISIONS ESTABLISHED.

Agenda Date: January 27, 2022

Prepared By: Robert St. Clair

GENERAL INFORMATION

NOTICE

Public notice for this January 27, 2022 Public Hearing is as follows:

- A. Notice was posted at area Post Offices on January 5, 2022;
- B. Notice was mailed on January 5, 2022 to surrounding landowners within 250' of the exterior boundaries of the property.

DISCLOSURES

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

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 27, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1 Shoreline stabilization application #21-04, stamped Received December 27, 2021;
- A-2 January 20, 2022 email from Mike Morgan with additional project description language.

"B" Exhibits – Agency Comments

- B-1 November 16, 2021 email from Eric Crum of Oregon Parks and Recreation Department regarding state requirements for the shoreline stabilization improvement project at 116 N. Laurel St.

"C" Exhibits – Cannon Beach Supplements

- C-1 None as of this writing;

“D” Exhibits – Public Comment

None received as of this writing;

SUMMARY & BACKGROUND

The applicant, Mike Morgan on behalf of the Martin & Maxine Siegel Living Trust, requests a shoreline stabilization to prevent erosion from encroaching onto 3915 Ocean Ave, as shown on the aerial photograph at the end of this staff report. The property is in the City’s Residential Moderate Density (R1) zone as well as the Oceanfront Management Overlay (OM) zone. The current request is evaluated against applicable standards in Cannon Beach Municipal Code (CBMC) chapter 17.42.060 Standards for shoreline stabilization structures in the Oceanfront Management Overlay (OM) zone; the conditional use permit criteria in CBMC 17.80; and applicable requirements of the Comprehensive Plan.

The applicant states that there has been significant erosion which has moved the dune face approximately 10 to 15 feet closer to the house. At the time the house was constructed in 2003 the bank was stabilized with jute netting and European beach grass, however this has eroded away since that time. While the property may be eligible to place rip-rap as it was committed to development prior to 1977, the owners have chosen to use a more natural form of beachfront protection consisting of a cobble berm with willow plantings, a method preferred by Oregon Parks and Recreation Department. Although no documentation has been submitted by an engineer the applicant states that the house does not appear to be in immediate danger, however this action is intended to slow the rate of erosion and provide additional distance between it and the dune face.

Installation of shoreline stabilization structures in the Oceanfront Management Overlay Zone is permitted under CMBC 17.42.030.C.1 subject to the provisions of 17.80.230. Approval requirements are excerpted in this staff report.

Applicable Criteria

The Cannon Beach Municipal Code (CBMC) requires all shoreline stabilization structures apply for a conditional use permit in the R1 and Oceanfront Management zoning districts that make up the subject property.

Cannon Beach Municipal Code defines shoreline stabilizations structures as:

17.04.520 Shoreland stabilization.

“Shoreland stabilization” means the protection of the banks of tidal or inter-tidal streams, rivers, estuarine waters and the oceanfront by vegetative or structural means.

Oceanfront Management Zone Uses and Permitted Activities

17.42.020.A.2.B Relationship to the Underlying Zone. *Uses and activities within the OM zone are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this zone and the underlying zone conflict, the provisions of this zone shall apply.*

Staff Comment: The underlying zone is Residential Moderate Density (R1) and shoreline stabilization, whether through vegetation or structural a conditionally permitted use in 17.12.030.

17.42.030.C Uses Permitted in the OM Zone

C. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.80, Conditional Uses:

1. *Shoreline stabilization, subject to the provisions of Section 17.80.230;*
2. *Nonstructural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5);*
3. *Preservation grading, subject to the provisions of Section 17.42.060(A)(3);*
4. *Remedial dune grading, subject to the provisions of Section 17.42.060(A)(4).*
5. *A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access.*

Staff Comment: Conditional approval of shoreline stabilization is permitted on lots that consist of beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding. The property is subject to tidal events such as king tides and storm surges that are undercutting the existing foredune and causing rapid erosion of the subject property. The applicant provides a description of a non-structural shoreline stabilization project which specifies under 50 cubic yards of cobble stabilized by vegetation. This activity is regulated through the conditional use permit process and meets criteria.

17.42.060.A.5 Nonstructural Shoreline Stabilization

5. Nonstructural Shoreline Stabilization Program.

- A. *The program is prepared by a qualified individual approved by the city. The program shall be based on an analysis of the area subject to accretion and/or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.*
- B. *The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.*
- C. *Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.*
- D. *Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.*
- E. *The affected property owners shall establish a mechanism that provides for the on-going management of the proposed program.*
- F. *The impact of the program shall be monitored. For multiyear programs, an annual report detailing the effects of the program during the previous year shall be presented to the planning commission. The report shall include recommendations for program modification. For a one-year program, a final report detailing the effects of the program shall be presented to the planning commission.*
- G. *Areas that accrete as the result of a stabilization program will not form the basis for reestablishing the location of the building line specified by Section 17.42.050(B)(3).*

Staff Comment: The proposed stabilization project is designed to be an alternative to the structural placement of rip-rap or other constructed barrier and will have planted vegetation to provide surface cover and additional stability. There is no indication whether sand will be graded or if fill will be necessary to establish new

vegetation. If over fifty cubic yards are to be moved, the preservation grading standards, CBMC 17.42.060(A)3, copied below, should be considered in review. The application does not state how close the project site is to any structures, but any vegetation planted within 25 feet of a structure should be fire resistant. *Fire Resistant Plants for Home Landscapes*, published by Oregon State University, states that willow species meet this criteria so long as they are not of the large, tree-form variety. The site should be monitored yearly by the applicant and provided to the City as documentation as a condition of approval. The proposed design is consistent with surrounding conditions and is intended to restore the foredune to a more natural appearing state. Meets criteria upon condition of approval #2.

Conditional Uses for Shoreline Stabilization

17.80.110 Conditional Use Approval Standards

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

- A. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.*
- B. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.*
- C. The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.*
- D. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.*
- E. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.*
- F. The site and building design ensure that the use will be compatible with the surrounding area.*

Staff Comment: The application indicates that the project is necessary to counter the rate of erosion being seen at the subject property and restore material that has been removed by tidal and storm surge events, the project will also allow for the property to be restored to a visual appearance similar to that of adjacent properties. The application does not describe where trucks and other equipment will access the project site, only that a beach access permit from Oregon Parks and Recreation Department will be obtained prior to commencing work. Meets criteria.

17.80.230.C Shoreline Stabilization Standards

The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

Staff Comment: Due to the project's location on the border of the state vegetation line, the project will require coordination with the Oregon Parks and Recreation Department. The application states that this permit will be obtained prior to commencement of work. State requirements, as found in Exhibit B-1, include the following:

- Allowance to place up to 50 cubic yards of natural material on the ocean shore through a free drive on the beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles four to eight inches in size. Any imported sand must be clean and free from any contaminant or seed. Cobble cannot be quarried or angular rock and must match, as closely as possible, naturally occurring cobble present at the work site location.
- Any proposed dynamic revetment such jute matting or planting, using more than 50 cubic yards of sand, or building a cobble revetment project using more than 50 cubic yards of material requires the approval of a Shoreline Alteration Permit from Oregon Parks and Recreation Department.

The project as described does not appear to exceed the 50 cubic yard threshold and thus meets criteria.

17.80.230.D.1 Shoreline stabilization priorities

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:

- a. Proper maintenance of existing riparian vegetation;*
- b. Planting of riparian vegetation;*
- c. Vegetated rip-rap;*
- d. Nonvegetated rip-rap;*
- e. Bulkhead or seawall.*

Staff Comment: The applicant's proposal is described as the placement of approximately 50 cubic yards of round cobbles and planted vegetation consisting of natural willows. According to the applicant the design is an alternative to non-vegetated rip-rap preferred by Oregon Parks and Recreation Department. Meets criteria.

17.80.230.E.1 Qualifications for Beachfront Protection

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

- a. There is a critical need to protect property that is threatened by erosion hazard;*
- b. Impacts on adjacent property are minimized;*
- c. Visual impacts are minimized;*
- d. Access to the beach is maintained;*
- e. Long-term or recurring costs to the public are avoided; and*
- f. Riparian vegetation is preserved as much as possible.*

Staff Comment: Although no statement from an engineer has been provided, application materials indicate that structures on the property may be threatened in the near future if the rate of erosion continues unchecked. The project would allow for the dune to be returned to a more natural state, visually consistent with surrounding properties. There should be no impacts to beach access or recurring costs to the public, and the proposed planting of willows and beach grasses, if allowed to establish, should provide stability to the eroding dunes. Meets criteria upon condition of approval #2.

17.80.230.I Minimum Level of Protection Limitation

The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

Staff Comment: The project as described does not appear to exceed the original footprint of the beach facing yard and adjacent natural dunes. Meets criteria.

Staff Recommendation

Staff recommends approval of this Conditional Use Permit for nonstructural shoreline stabilization subject to the conditions outlined in the decision below.

Procedural Requirements

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. It was submitted December 27, 2021; and determined to be complete on December 27, 2021. Based on this, the City must make a final decision before April 26, 2022.

The Planning Commission's January 27th meeting will be the first evidentiary hearing on this revised request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission's next regularly scheduled hearing date is February 24, 2022.

DECISION, CONDITIONS AND FINDINGS

Motion: Having considered the evidence in the record, upon motion by Commissioner _____, second by Commissioner _____, and by a vote of ____ to ____, the Cannon Beach Planning Commission hereby (approves/approves with conditions/or denies) the conditional use request for the construction of a structural shoreline stabilization of CU# 21-05 as discussed at this public meeting (subject to the following conditions) and approves the drafting of findings for Commission consideration and adoption at its next scheduled meeting of February 24, 2022:

1. The applicant shall coordinate this project with Oregon Parks and Recreation Department and obtain all permits required for this work including beach access for vehicles.
2. Planning Commission provides preferred vegetation planting guidance as per Foredune Management Plan 2018 revision Vegetation Planting Specifications language (pg. 18).
3. Any preservation grading shall be subject to the following conditions:
 - Areas of sand removal covered under this permit are ocean front and side yards within 35 feet of the foundation of the structure and an area of no more than 12 feet in width west of the established fence line west of the established fence line west of the structure to allow use of heavy equipment for sand removal.
 - Sand removed from this area to be placed back in the sand/beach system in the areas indicated on the attached map. The intent of this requirement is to place sand over the edge of the sand bluff onto the tide washed area of the beach.
 - Sands which are mixed with soils, gravel or non-beach vegetation are to be removed from the area and disposed of off-site.
 - Moving of sand to the placement area shall take place along routes between the sand/grass mounds indicated. Routes of travel should be in a manner which does not damage existing beach grass or disturb areas west of the 12-foot removal area.
 - Before any work is performed with power equipment in the above area the City shall be given at least 48-hours notice prior to commencing work. Any vehicle access permits for operation west of the zone line shall be obtained.

- When hand or manual removal of more than 5 yards is to take place the City shall be given at least 48-hours notice prior to commencing work and City will have on-site representation for monitoring activities.
4. Yearly monitoring of the area, by photographic documentation, provided to the City by the applicant.

Preservation Grading Specific Standards, if applicable

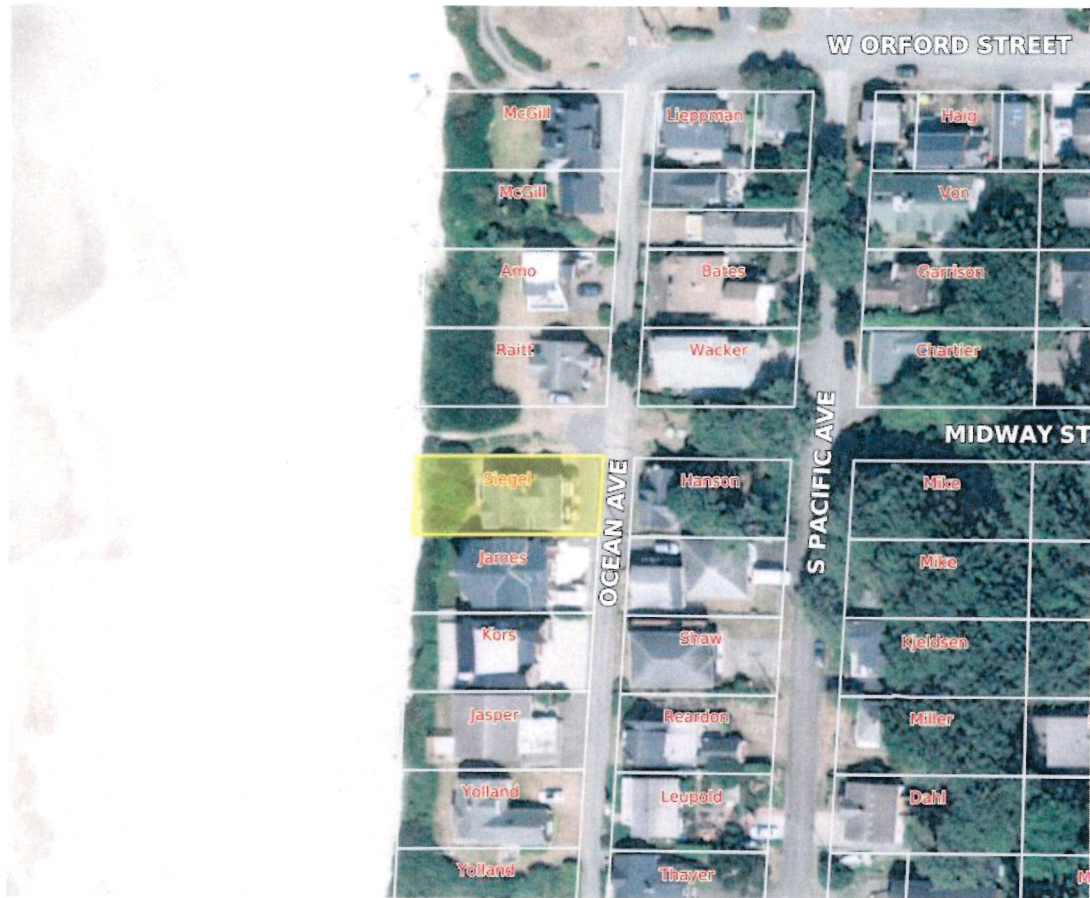
CBMC 17.42.060(A)3. Preservation Grading. Grading or sand movement necessary to repair blow-outs, erosion or maintain public access or facilities, which may be allowed in active dune areas only if the area is committed to development and meeting the requirements of Comprehensive Plan Foredune Management Policy. Preservation Grading does not include grading necessary for the repair, maintenance or installation of stormwater outfalls or facilities, including infiltration and water quality systems. Preservation Grading Conditional Use Permit requests for preservation grading shall include the following information:

- a. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one-hundred year flood elevation established in the "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated June 20, 2018; plus an additional one vertical foot safety buffer for predicted sea level rise. The minimal cross-section area that must be maintained is one thousand one hundred square feet of dune above the stillwater flood elevation.
- b. Identify and set priorities for low and narrow dune areas which need to be built up.
- c. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities. Placement of sand on the beach may be permitted as part of a foredune grading permit if sand deposition does not exceed a depth of twelve centimeters. Placement of sand along the seaward face of the dune may be permitted as part of a foredune grading plan if the resulting slope is no steeper than twenty-five to thirty-three percent.
- d. The cumulative volume of proposed grading.
- e. Preservation grading plans shall be submitted to the soil and water district for their comments and any necessary permits shall be obtained from the Oregon State Parks and Recreation.
- f. A monitoring plan. Monitoring is mandatory, and the responsibility of the permit holder. Annual monitoring reports are required for the first and second years following grading activities, and may be requested by the planning commission for subsequent years. Monitoring reports shall include:
 - I. The area, volume, and location of grading;
 - II. The area(s) where graded sand was deposited;
 - III. Erosion control measures;
 - IV. Revegetation measures;
 - V. Impacts on wildlife habitat, including razor clam habitat;
 - VI. Any other requirements of the approved grading plan; and
 - VII. Any conditions of approval imposed by the planning commission.

The city shall retain the services of independent outside experts, at the expense of the permit holder, to review monitoring report and to make recommendations to the city for corrective actions or for future grading, disposition, and revegetation activities. The monitoring report may be included in the review, if conducted by an agreed upon outside expert, at the expense of the permit holder and contracted by the city. Failure to submit the required monitoring reports will result in a penalty and will prevent future grading permits to be issued for the area for a period of five years beginning after the monitoring reports are brought up to date.

- g. Permits for preservation grading shall not be approved unless they comply with applicable policies of the Comprehensive Plan, including Sand Dune Construction and Foredune Management Policies.
- h. Permits for preservation grading may be approved if the Planning Commission finds all of the following criteria have been met:
 - I. The proposal achieves a balance of these four objectives:
 - A. To ensure the dunes sustain an adequate sand volume in order to withstand the erosional effects of (an) extreme storm(s) and to minimize any potential for wave overtopping and inundation (flooding) of backshore.
 - B. To strengthen weak points in the dune system (e.g., adjacent to trails), by repairing areas subject to localized blowouts from wind or waves in order to prevent the dune buffer from erosion and potentially being breached during a storm.
 - C. To maintain valuable habitat for a wide range of plants and animals, such as shellfish, including razor clams, and in some cases rare species.
 - D. To maintain the integrity and natural beauty of the dunes, while providing for the necessary functions of public access, facilities and utilities.
 - II. The annual cumulative volume of preservation grading does not exceed two thousand five hundred cubic yards.
 - III. The preservation does not remove sand from the beach-foredune system.
 - IV. The preservation grading sand deposition area will not impact adjoining property.
- i. Revegetation of graded areas is mandatory. This can be accomplished with a combination of European Beach grass (*A. arenaria*); non-native American dune grass (*A. breviligulata*); the PNW native dune grass (*E. mollis*); or another revegetation plan approved by the planning commission. Graded areas shall be stabilized immediately after grading. Where immediate revegetation is not possible, or where revegetation fails, temporary erosion control measures shall be implemented until revegetation can be completed. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures, but fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.
- j. Maintenance activities not requiring a separate administrative permit under the approved conditional use permit may include:
 - I. Additional plantings or certified organic fertilizer applications in areas where plantings performed poorly.

Site Location Map



Oceanfront Management Zone Overlay and Vegetative Line





CITY OF CANNON BEACH

City of Cannon Beach
Finance Department

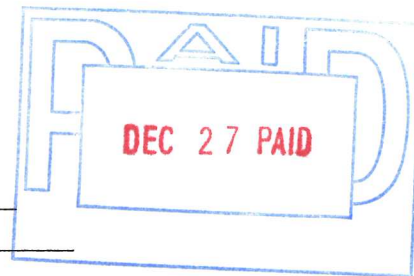
DEC 27 2021

Received

CONDITIONAL USE APPLICATION

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

Applicant Name: Mike Morgan
Email Address: hminc@pacifier.com
Mailing Address: PO Box 132, Cannon Beach, Or 97110
Telephone: 503 739 0102



Property-Owner Name: Martin and Maxine Siegel Living Trust
(if other than applicant)
Mailing Address: 9515 SE 15th St Bellevue, WA 98004
Telephone: 425 786 8266
Property Location: 3915 Ocean Avenue
(street address)
Map No.: 4106CB Tax Lot No.: 400

4106CB 00400

CONDITIONAL USE REQUEST:

1. Description of the proposal.

The Siegel property has experienced significant erosion in recent years due to King tides and storm surges. When the current structure was built in 2003, the shoreline was 10-15 feet west. When the current house was built, the bank was stabilized with jute netting and European beach grass, which has since eroded away. Although the property is technically eligible for rip rap under Goal 18 since it was committed to development prior to 1977, the owners have chosen to use a more natural form of beachfront protection, a cobble berm and additional willow plantings. This is the preferred method of Oregon State Parks and some environmental groups. While it may not be a long-term solution, it is a method that will buy the Siegels some time against the forces of nature in the face of climate change and rising sea levels. The Siegel house is at approximately 20-25 feet of elevation and is elevated on pilings to withstand larger storm surges. Although the home is not immediately threatened, this modest proposal would provide the owners with peace of mind in a dynamic location and hopefully slow the rate of erosion.

2. Justification of the conditional use request. Explain how the request meets each of the following criteria for granting a conditional use.

- a. Explain how a demand exists for the use at the proposed location. Several factors which should be considered include: accessibility for users (such as customers and employees); availability of similar existing uses; availability of other appropriately zoned sites, particularly those not requiring conditional use approval; and the desirability of other suitably zoned sites for the use.

DEC 1 1930

The demand is described above. The Cannon Beach shoreline has been battered by king tides and storm surges over the last few years, and this trend is only expected to continue. "In areas where dunes and bluffs are getting impacted every winter, that will get worse," said Peter Ruggiero, interim director of the Oregon Climate Change Research Institute. Flooding of roads, homes, businesses and other types of coastal infrastructure, which happens periodically today, will become more common, he said. The Siegel property is at a relatively low elevation at Midway Street and is built on Marine Terrace clay, which has been eroding.

- b. Explain in what way(s) the proposed use will not create traffic congestion on nearby streets or over-burden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

There will be no traffic congestion on nearby streets, since construction will be from the beach. It will have no impact on public facilities and services. It will actually protect the adjacent City public access stairs from erosion.

Conditional Use Permit

Page 2

- c. Show that the site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by City Ordinances or desired by the applicant.

The project is anticipated to take one day to complete the cobble berm and one day to plant the willows. There will be no impact on yards, buildings, drives, etc.

- d. Show that the topography, soils, and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils must be shown to be eliminated or reduced to the extent necessary for avoiding hazardous situations.

The site of the berm is at approximately 12 of elevation. The cobble berm will be approximately 3 feet high placed up against the clay bank that has eroded. The purpose of the berm is to strengthen the weak soils of the Marine Terrace along with the native willows, and to reduce hazards to the Siegel home. The berm work would be done after the next set of king tides (January 1-3, 2022) and the willow planting would be done in February.

- e. Explain in what way an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by City ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

There is no construction other than the cobble berm show on the attached aerial photo.

- f. Explain how the proposed site and building design will be compatible with the surrounding area.

There are rip rap seawalls both to the north and south of the Siegel property, as well as dense stands of willow. The cobble berm and willows will be a natural appearing addition to the beachfront.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure, and dimensions of proposed development.

Application Fee: \$750.00

Applicant Signature: _mike morgan

Date: 12 26 21

Property Owner Signature: ___see attached_____

Date: _____

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

For Staff Use Only:

Date Received: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)

CONDITIONAL USE PERMIT - GENERAL INFORMATION

What is a Conditional Use Permit?

Land use on all property in Cannon Beach is governed by zoning districts established by the City Council. Cannon Beach has two main types of zoning districts: residential and commercial. Within each of these main categories there are specific zoning districts, such as Medium Density Residential, R-2, and High Density Residential, R-3. Every zoning district has a list of permitted uses and a list of uses that are only allowed after being approved for a conditional use permit. For example, on property zoned R-2, Medium Density Residential, a single-family dwelling is allowed outright, but a church would be allowed only if approved under a conditional use permit.

The Purpose of Conditional Use Permits

Certain uses by their very nature need special consideration before they can be allowed in a particular zoning district. The reasons for requiring such special consideration involve, among other things, the size and intensity of the use, traffic generated by the use and compatibility of the use with the area. These issues are addressed through the conditional use permit process which involves a public hearing before the Planning Commission.

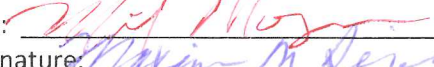
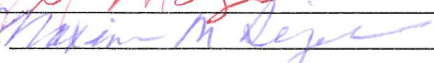
Application and Processing.

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

- c. Show that the site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by City Ordinances or desired by the applicant.
- d. Show that the topography, soils, and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils must be shown to be eliminated or reduced to the extent necessary for avoiding hazardous situations.
- e. Explain in what way an adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by City ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.
- f. Explain how the proposed site and building design will be compatible with the surrounding area.

Use extra sheets, if necessary, for answering the above questions. Attach a scale-drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure, and dimensions of proposed development.

Application Fee: \$750.00

Applicant Signature: 
 Property Owner Signature: 

Date: 12-20-21
 Date: 12-20-21

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

For Staff Use Only:

Date Received: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)

If the use you wish to establish on your property requires a conditional use permit, the first step is to informally discuss your proposal with the City Planner. Applications may be submitted by the property owner or an authorized agent. An application should include a detailed statement of the proposed use and a plot plan showing the development of the site. After you submit a completed application, accompanied by a fee to help defray the cost of processing, the City will begin processing your conditional use application.

Public Hearing - Planning Commission.

Conditional use permit requests are considered by the Cannon Beach Planning Commission at a public hearing. Hearings for conditional use permits will be held within 40 days after the application is submitted. Notice of the hearing is mailed to the applicant and to property owners with 250 feet of the site in question. Prior to public hearing, the City Planner will prepare a written report on the request. The report will contain the background of the request and a recommendation based on an investigation of the facts of the proposal and how they pertain to the criteria for granting a conditional use permit. A copy of the report will be mailed to the applicant. Anyone interested in the application may request a copy of the report. At the public hearing, the property owner desiring the conditional use permit has the burden of establishing that the requested conditional use meets the criteria in the Zoning Ordinance. Other people will be given the opportunity to speak in favor of the request, offer comments, ask questions, and/or speak in opposition. At the end of the hearing, the Planning Commission will approve, approve with conditions, or deny the conditional use request.

Appeals to the City Council.

Appeals of the Planning Commission action must be made within 20 days of the decision. The basis of the written appeal must be that the Planning Commission made an error in its decision. The applicant may ask for a new hearing before the City Council or request that the City Council review the Planning Commission record established in making its decision. The City Council may either uphold, reverse or place conditions upon the Planning Commission decision.



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RECENT
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RECENT EROSION
AFTER JAN 13 TIDES

SECRET
EXPT 31 MAL 3377A

Robert St. Clair

From: mike morgan <hminc@pacifier.com>
Sent: Thursday, January 20, 2022 11:19 AM
To: Robert St. Clair
Cc: Mimi Siegel
Subject: Additional findings for the Siegel Conditional Use Proposal

To: Robert St. Clair, Associate Planner, City of Cannon Beach

From: Mike Morgan, Planning Consultant

Re: Additional Findings of Fact for the January 27 Planning Commission Hearing

Please include the following findings in the record for the upcoming meeting.

- A. Beachfront protective structures seaward of the Oregon Coordinate Line, require a permit from the Oregon Parks and Recreation Department and the city. Beachfront protective structures landward of the Oregon Coordinate Zone Line requiring more than fifty cubic yards of material may require a permit under the Oregon Removal Fill Law. All beachfront protective structures landward of the Oregon Coordinate Line require a permit from the city.

Finding: The proposal is to place 50 cubic yards of 4-8" cobbles along the front of the Siegel property. The cobbles will extend from the public access stairs on Midway Street to the south property corner. According to OPRD, the only permit for this activity is a "drive on beach" permit for the contractor, McEwan Construction. We are applying for a conditional use for the work both west and east of the OCL. In 2007 when the new house was built (there was a previous structure on the site), 50 cubic yards of beach sand was placed along the front, jute netting was installed, and European beach grass was planted. In the last 15 years this has eroded away. Several feet of the property have been lost in the latest round of king tides and storm surges.

- B. The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

The OPRD has advised that the deposition of 50 c.y. or less only requires a beach permit mentioned above, which will be applied for prior to construction. We are applying for the conditional use as part of the city requirements.

D. Shoreline Stabilization Priorities.

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:
 - a. Proper maintenance of existing riparian vegetation;
 - b. Planting of riparian vegetation;
 - c. Vegetated rip-rap;
 - d. Nonvegetated rip-rap;
 - e. Bulkhead or seawall.

The “cobble berm” is not included as one of the priorities, but it is an alternative to rip-rap that has gained favor by the OPRD and other groups. Cobbles are naturally occurring in the area and can, in

conjunction with willow or European beach grass plantings, stabilize the oceanfront. The cobble berm will be covered with sand, and clay/sand mixture will be placed behind or east of the berm to support the willow plantings.

E. Qualifications for Beachfront Protection.

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

a. There is a critical need to protect property that is threatened by erosion hazard;

Since the house was built in 2007, over ten feet of oceanfront property has been eroded, much of it in the last few months due to king tides. Tides have undermined the city beach access steps as well. With climate change and sea level rise this is only expected to continue.

b. Impacts on adjacent property are minimized;

There will be no negative impact on adjacent property. The berm will help to protect the city stairs. There is rip-rap on lots to the south and north.

c. Visual impacts are minimized;

The willow plantings will provide a natural appearance to the oceanfront once they are established.

d. Access to the beach is maintained;

The berm will protect the adjacent city stairs from continued erosion. The public works department has no objection to the proposal.

e. Long-term or recurring costs to the public are avoided; and

There is no long term or recurring cost to the public as it is funded entirely by the property owners.

f. Riparian vegetation is preserved as much as possible.

*The purpose is to reestablish riparian vegetation that has been lost to the ocean. Hooker willows (*Salix hookerii*) will be planted in a matrix of sand and clay behind the berm.*

2. These criteria shall apply to structural shoreline stabilization both east and west of the State Zone Line.

F. Beachfront protective structures for beach and dune areas shall be permitted only where development existed on January 1, 1977. “Development” means houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Goal 18 exception has been approved. Notwithstanding that the comprehensive plan and a map made part of the ordinance codified in this title identify property where development existed on January 1, 1977, owners whose property is identified as undeveloped on January 1, 1977 shall have a right to a hearing as provided in Chapter 17.88, as amended, to determine whether development did or did not exist on the property on January 1, 1977.

The Siegel house replaced another house on this lot in 2007, and therefore meets the Goal 18 requirement.

H. Rip-rap shall be placed in accordance with the city’s design criteria. Structural shoreline stabilization shall be designed by a registered engineer if the city’s design criteria for rip-rap are not used, or if landslide retention is a factor in the placement of the shoreline protection structure. All structural shoreline stabilization shall be covered with fill material such as soil, clay or sand and revegetated with beach grass, willow or other appropriate vegetation. This requirement shall apply to replacement or repair of existing rip-rap as well as new construction.

This is not a rip-rap project. The cobble berm was recommended by OPRD as an alternative with less environmental impact.

- I. The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

This project is the minimum necessary to provide protection for the home. The only other alternative is to deposit sand as was done in 2007.

- L. The city may require that proposed structural shoreline stabilization abutting a street end, or other public right-of-way, incorporate steps, paths or other physical improvements to enhance public access to coastal waters. (Ord. 95-21 § 4; Ord. 94-08 §§ 16—18; Ord. 89-3 § 1; Ord. 86-10 § 11; Ord. 79-4 § 1 (6.230))

The city stairs on the north end of the berm will be protected as shown on the attached photograph.

View

Robert St. Clair

From: Jeffrey Adams
Sent: Monday, December 13, 2021 11:11 AM
To: Robert St. Clair
Subject: FW: 116 N Laurel Street, Cannon Beach
Attachments: BPFindings.pdf

Robert,

This is the email that outlines the State's permitting requirements for shoreline stabilization. You could use this in your staff report. I found this CUP from Breakers Point that you might have a look at.

Jeff



Jeff Adams

Community Development Director

City of Cannon Beach

p: 503.436.8040 | tty: 503.436.8097 | f: 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: www.ci.cannon-beach.or.us | e: adams@ci.cannon-beach.or.us

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

From: CRUM Eric * OPRD <Eric.CRUM@opr.d.oregon.gov>
Sent: Tuesday, November 16, 2021 11:03 AM
To: Mike McEwan <mmcewan3569@gmail.com>; Karen La Bonte <labonte@ci.cannon-beach.or.us>; Trevor Mount <mount@ci.cannon-beach.or.us>; Bruce St. Denis <stdenis@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.d.oregon.gov>; Jeffrey Adams <adams@ci.cannon-beach.or.us>; TAYLOR Trevor * OPRD <Trevor.TAYLOR@opr.d.oregon.gov>
Subject: RE: 116 N Laurel Street, Cannon Beach

Mike, Karen, Trevor, and Bruce,

Thank you for taking the time to meet with us yesterday. I'm including a brief recap here on what we discussed for the 116 N Laurel St project. I will follow-up with a subsequent email concerning the city's outflow pipes and that permit process moving forward.

We discussed a few potential options for working on the ocean shore in this location:

1. You are allowed to place up to 50 cubic yards of natural material on the Ocean Shore through a free drive on beach permit. Natural materials are defined as driftwood, clean sand, and river cobbles 4"-8" in size. If using driftwood, it cannot be structurally engineered, but simply placed on the ocean shore. Any imported sand would have to be clean and free from any contaminant or seed. The river cobble cannot be quarried rock, nor can it be angular. The cobble must match, as closely as possible, the naturally occurring cobble currently present in the location. The free Drive on Beach permit application can be found here: <https://stateparks.oregon.gov/index.cfm?do=visit.dob-form>

2. Any proposed dynamic revetment (i.e., jute matting and planting), using more than 50 yards of sand, or building a larger cobble revetment project using more than 50 cubic yard of material would require a complete and approved Shoreline Alteration Permit. That permit application can be found here (<https://www.oregon.gov/oprd/prp/pages/per-ocean-shore.aspx>) and here: (https://www.oregon.gov/oprd/PRP/Documents/PRP_PER_OS_SPS_form.pdf). There is a cost associated with this, as well as a public-comment notification period. In section 1, they would choose "Other." Please note that if the project is more than 50 feet in length, it would require a geologic report from a registered professional geologist and a completed Analysis of Hazard Avoidance. Also note that this permit requires the attached City/County Planning Department Affidavit (pg.9) to be completed and signed off/approved by the local planning official, in this case it would be from the City of Cannon Beach.
3. A permanent riprap revetment or seawall would also be obtained through the same Shoreline Alteration Permit, including the same requirements as mentioned above in number 2. A brief check of the Coastal Atlas reference map (<https://www.coastalatlant.net/oceanshores/>), indicates that the property is potentially eligible for a beachfront protective structure. Again, this would have to be verified and approved by the City of Cannon Beach and Clatsop County.

As we observed at the site, there are at least 2 pipes currently exposed and draining onto the ocean shore from this property. Any drainage or water outflow that occurs west of the Statutory Vegetation Line, would also have to be addressed and included in the proposed project application for the Shoreline Alteration Permits.

If you have any further question regarding this project, and these options, please feel free to reach out. My contact information is provided below.

Best,

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366
www.oregonstateparks.org

From: CRUM Eric * OPRD
Sent: Wednesday, November 10, 2021 10:06 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.Parker@oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Okay, great. Thanks Jeff. It is 116 **NORTH** Laurel St... not south. I think Mike has it down wrong.

See you on Monday.



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)
Nehalem Bay Management Unit
34600 Garey St. | Nehalem, OR 97131-8246
Office: (503) 812-0650 | Cell: (503) 801-3366

From: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Sent: Wednesday, November 10, 2021 9:59 AM
To: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: RE: 116 S Laurel Street, Cannon Beach

Eric,

Thanks, we'll try to make the meeting, as they'll need City approval.

Jeff



Jeff Adams

Community Development Director

City of Cannon Beach

p: 503.436.8040 | tty: 503.436.8097 | f: 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: www.ci.cannon-beach.or.us | e: adams@ci.cannon-beach.or.us

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

From: CRUM Eric * OPRD <Eric.CRUM@opr.oregon.gov>
Sent: Wednesday, November 10, 2021 9:34 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>
Subject: FW: 116 S Laurel Street, Cannon Beach

Good morning Jeff,

Just an FYI, we're meeting with Mike McEwan about a new project proposal this coming Monday at 116 S Laurel St. See attached. We are meeting at Noon.

I wanted to give you a heads up is all. Feel free to join if you would like. I'll keep you in the loop on anything moving forward from OPRD.

Eric



Eric Crum | WOC Ocean Shore Specialist / North Coast District Beach Ranger

Schedule: Mon. - Fri. (7am-3:30pm)

Nehalem Bay Management Unit

34600 Garey St. | Nehalem, OR 97131-8246

Office: (503) 812-0650 | Cell: (503) 801-3366

www.oregonstateparks.org

From: Mike McEwan <mmcewan3569@gmail.com>

Sent: Monday, November 8, 2021 11:40 AM

To: CRUM Eric * OPRD <Eric.CRUM@oregon.gov>

Subject: 116 S Laurel Street, Cannon Beach

Hello Eric,

Could we set up a time to review the attached project at 116 S Laurel Street, Cannon Beach?

Michael McEwan

President

Bob McEwan Construction, Inc. CCB 48302

503.440.0223 503.738.3569

mmcewan3569@gmail.com





CITY OF CANNON BEACH

January 5, 2021

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

Dear Property Owner,

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

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

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

Sincerely,

Kathryn Hillenhagen

Katie Hillenhagen
Administrative Assistant

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

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

The Cannon Beach Planning Commission will hold a virtual public hearing on **Thursday, January 27th, 2022 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

AA 21-01, Remand of the Jeff and Jennifer Harrison appeal of the City's approval to issue a development/building permit for 544 N Laurel Street. The property is located at 544 N Laurel Street (Tax Lot 07000, Map 51019AD), and in a Residential Medium Density (R2) zone. The request will be reviewed pursuant to Municipal Code, Section 17.88.160, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance, conditions of approval of the Cannon Beach Preservation Planned Development Subdivision and approved plat.

AA 21-03, Dana Cardwell appeal of the City's administrative decision to approve development permit DP#21-23 for the Forest Lawn Right-of-Way for a stormwater pipe extension under Chapter 17.62 Grading, Erosion and Sedimentation Control. The proposed work is on the east side of Forest Lawn in front of Taxlot 510301A01100 in a Residential Medium Density (R2) zone. The appeal will be reviewed pursuant to Municipal Code, Section 17.92.010, Development Permits, Section 17.62 Grading, Erosion and Sedimentation Control, Review Consisting of Additional Evidence or de Novo Review and applicable sections of the zoning ordinance.

CU 21-03, Jacqueline O. Brown Revocable Trust request for a Conditional Use permit to replace approximately 50 cubic yards of sand that has eroded the bank on the west side of the property. The property is located at 116 N. Laurel St. (Tax Lot 04000, Map 51019DD) in a Residential Medium Density (R2) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.14.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-04, Mike Morgan, on behalf of The LBC Trust, Mark Smith, Trustee, request for a Conditional Use permit for shoreline stabilization. The property is located at 4664 Logan Lane (Tax Lot 03401, Map 41006CB) in Residential Lower Density (RL) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.10.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

CU 21-05, Mike Morgan, on behalf of the Martin and Maxine Siegel Living Trust, request for a Conditional Use permit for shoreline stabilization. The property is located at 3915 Ocean Ave. (Tax Lot 00400, Map 41006BC) in Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

SR 21-06, David Vonada, on behalf of John Henry, application to allow a setback reduction to reduce the rear yard setback from the required 15'0" to 11'6" to build a new exit stair onto a

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

reconstructed second floor deck, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1688 S. Hemlock St. (Tax Lot 04103, Map 51030DA), 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.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Written testimony received one week prior to the hearing will be included in the Planning Commissioner's meeting materials and allow adequate time for review. Materials and relevant criteria are available for review at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, or may be obtained at a reasonable cost. Staff reports are available for inspection at no cost or may be obtained at a reasonable cost seven days prior to the hearing. Questions regarding the applications may be directed to Jeffrey Adams, 503-436-8040, or at adams@ci.cannon-beach.or.us.

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



Jeffrey C. Adams, PhD
Director of Community Development

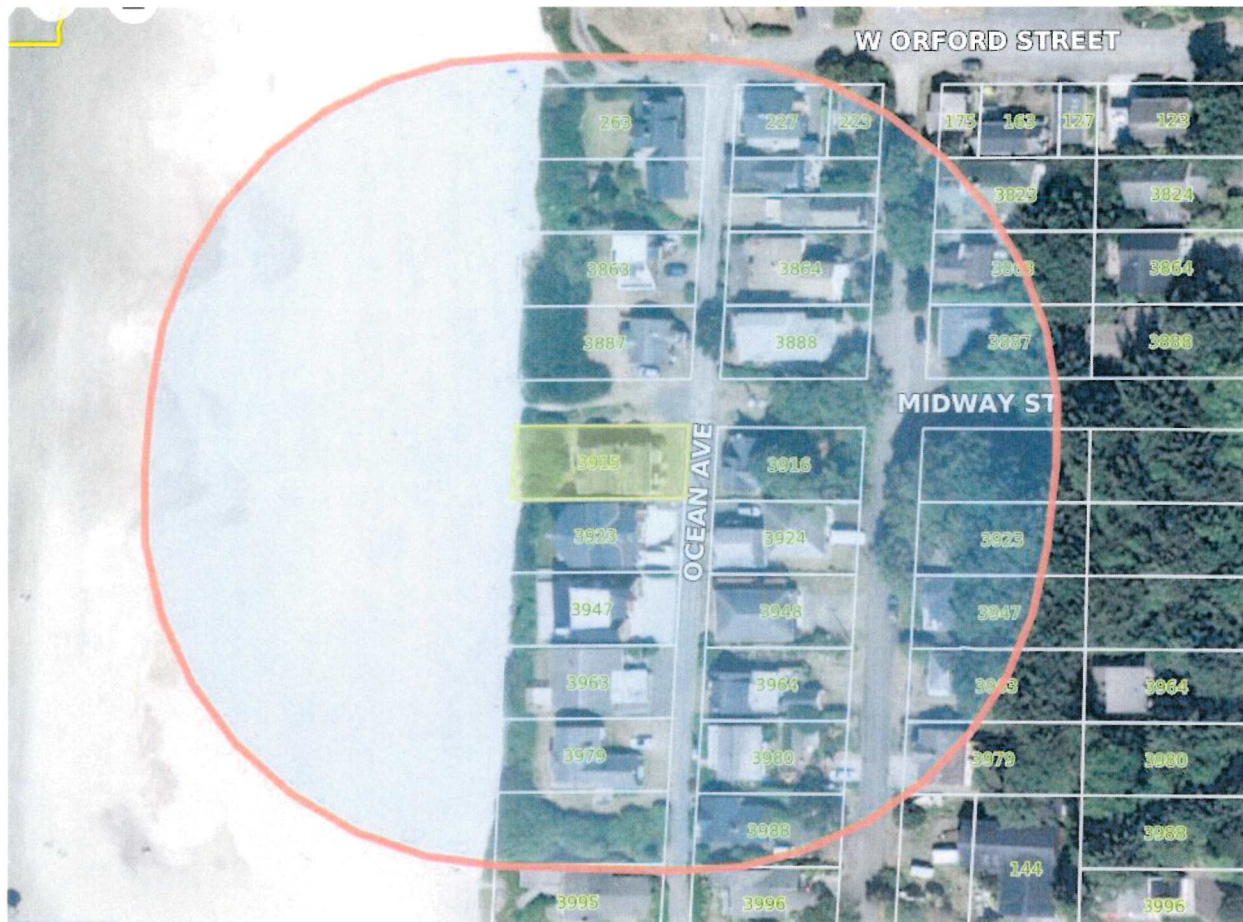
Posted/Mailed: **January 5, 2022**

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

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

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

CU21-05, Siegel Trust
3915 Ocean Ave.



CU21-05, Siegel
3915 Ocean Ave.

TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
41006BC00100	263 Orford St	McGill Grootveld Carolyn	6452 SE 30th Way	Gresham	OR	97080
41006BC00300	3863 Ocean Ave	Amo Keith R	PO Box 3471	Portland	OR	97208-3471
41006BC00301	3887 Ocean Ave	Raitt Carol Tr	701 N 64th St	Seattle	WA	98103-5633
41006BC00400	3915 Ocean Ave	Siegel Maxine M	9515 SE 15th St	Bellevue	WA	98004
41006BC00500	3923 Ocean Ave	James Lori M	PO Box 216	Tolovana Park	OR	97145
41006BC00600	3947 Ocean Ave	Kors Robert A	232 Quadro Vecchio Dr	Pacific Palisades	CA	90272
41006BC00700	3963 Ocean Ave	Jasper Helene K	7905 SW 10th Ave	Portland	OR	97219-4509
41006BC00800	3979 Ocean Ave	Yolland Janet K 1/2	7260 SW Willowmere Dr	Portland	OR	97225-1139
41006BC00901	3995 Ocean Ave	Wilson Barbara L	2701 E Parkriver Dr	Boise	ID	83706-6084
41006BC01000	223 Orford St	Grosjean Marsha Barrett	1200 NE 135th Ave	Portland	OR	97230
41006BC01100	227 Orford St	Lieppman Diane Liv Trust	4458 NE Shaver St	Portland	OR	97213
41006BC01200	3824 Ocean Ave	Jordan Darren	PO Box 150	Tolovana Park	OR	97145-0150
41006BC01300	3828 Pacific Ave	Brackett Marilyn	5215 NW 137th Ave	Portland	OR	97229
41006BC01400	3864 Pacific Ave	Bates Leroy A/Dorothea C Tr	PO Box 88	Tolovana Park	OR	97145-0088
41006BC01500	3888 Pacific Ave	Wacker Douglas S	14539 SE Berry Cane Lane	Boring	OR	97089
41006BC01700	3916 Ocean Ave	Hanson Mary Ann	4045 Ferry St	Eugene	OR	97405-3932
41006BC01800	3924 Ocean Ave	Reiersgaard William L	2600 SE Ellsworth Rd	Vancouver	WA	98664
41006BC01900	3948 Pacific Ave	Shaw Daren J	1848 N Estates Dr	St George	UT	84780
41006BC02000	3964 Ocean Ave	Reardon James E/Christine L	2814 Westwood Blvd	Los Angeles	CA	90064
41006BC02100	3980 Ocean Ave	Leupold Norbert	18790 SW Alderwood Dr	Aloha	OR	97003
41006BC02101	3988 Ocean Ave	Thayer Crystal J	2217 S Edgewood St	Seaside	OR	97138-5129
41006BC02202	175 Orford St	Hildum Kathleen	PO Box 737	Tolovana Park	OR	97145-0737
41006BC02300	3823 Pacific Ave	Von Eberstein Leslie Camille	PO Box 1475	Cannon Beach	OR	97110
41006BC02400	3863 Pacific Ave	Garrison Laurence	3523 146th St SE	Mill Creek	WA	98012
41006BC02500	3887 Pacific Ave	Chartier David W	1053 E Cartagena Dr	Long Beach	CA	90807
41006BC03000	3923 Pacific Ave	Mike and Mary Serres LLC	4137 NE Hazelfern Pl	Portland	OR	97232
41006BC03100	3963 Pacific Ave	Miller Eric	647 NW 22nd St	Redmond	OR	97756
41006BC03101	3947 Pacific Ave	Kjeldsen Lucinda F	3365 SE Steele St	Portland	OR	97202
41006BC03200	3979 Pacific Ave	Dahl John R/Lorna M	16745 SW King Richards Ct	Sherwood	OR	97140-8743
41006BC03301		Lewis Muriel S	144 Braillier Rd	Tolovana Park	OR	97145
41006BC06200	3996 Pacific Ave	Hoyt Karen J	PO Box 969	Cannon Beach	OR	97110-0969



Cannon Beach Planning Commission

Staff Report January Addendum:

PUBLIC HEARING AND CONSIDERATION OF **SR# 21-06**, DAVID VONADA APPLICATION, ON BEHALF OF PROPERTY OWNERS, JOHN AND BEVERLY HENRY, REQUESTING A SETBACK REDUCTION AT 1688 SOUTH HEMLOCK (TAXLOT 51030DA04103) FOR A REDUCTION OF THE REAR-YARD SETBACK OF 15 FEET TO 11 FEET AND 6 INCHES TO ALLOW FOR DECK - STAIRS FOR AN EXISTING RESIDENTIAL SINGLE-FAMILY STRUCTURE. THE PROPERTY IS IN THE RESIDENTIAL MEDIUM DENSITY (R2) ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTION 17.64.010, SETBACK REDUCTION, PROVISIONS ESTABLISHED.

Agenda Date: November 23, 2021, continued to December 21, 2021 and January 27, 2022;

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 19, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

A-3 Henry Residence Setback Reduction Request, submitted by applicant, January 19, 2022;

BACKGROUND

David Vonada, on behalf of John Henry, is seeking a setback reduction of the rear-yard setback from 15 feet to 11 feet and six inches to allow for a new deck-stairs for an existing single-family residence, at 1688 S. Hemlock St., at taxlot# 51030DA04103. The applicant was asked to provide further evidence in response to criterion (f) of Cannon Beach Municipal Code subsection 17.64.010(A.4), rehabilitation of existing buildings where other reasonable alternatives do not exist.

APPLICABLE CRITERIA

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

- a. Tree protection,*
- b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*

- d. The provision of solar access,
- e. Permitting construction on a lot with unusual configuration,
- f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- g. Protection of a wetland or wetland buffer area, or
- h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

Staff Comment: The applicant has provided that '(f) rehabilitation of existing buildings where other reasonable alternatives do not exist,' but doesn't speak to any alternatives. Currently the small existing deck area has only an internal point of access. The applicant states that "as a matter of safety, it would be desirable to have an additional exit from the second floor, allowing third floor occupants an alternative to exiting to the front door in the event of an emergency."

The applicant also states, "the suggested alternative of a portable ladder is not recognized as a legal means of egress per the building code and is not a safe alternative for the owners."

Cannon Beach Building Official, Alton Butler, has reviewed the request and comments:

"As long as there is a legal path to a main (1) legal required entry door (stairway, hallway, etc.) exterior egress is not required from each floor. However, egress is required out of bedrooms be it a legal egress window or door. It is outlined in the Residential Code under Emergency Escape and Rescue Openings. Section R310.1 and Section R311 Means of Egress."

PLANNING COMMISSION ACTION

If the Commission wishes to review the Findings prior to final approval:

TENTATIVE MOTION: Having considered the evidence in the record, I move to *tentatively* (approve/approve with conditions/or deny) the David Vonada application, on behalf of John and Beverly Henry for a rear-yard setback reduction request of 15 feet to 11 feet and 6 inches, Cannon Beach Planning Commission application number **SR# 21-06**, as discussed (subject to the following conditions) and request staff to draft findings for review and adoption, at a special called meeting, next Thursday at 6PM, September 2nd at City Hall:

- 1.

If the Commission does not wish to review the Findings prior to final approval:

MOTION: Having considered the evidence in the record, I move to (approve/approve with conditions/or deny) the David Vonada application, on behalf of John and Beverly Henry, for a rear-yard setback reduction request of 15 feet to 11 feet and 6 inches, Cannon Beach Planning Commission application number **SR# 21-06**, as discussed (subject to the following conditions):

- 1.

Henry Residence Setback Reduction Request

January 19, 2022

Criteria (d) Rehabilitation of existing buildings were other reasonable alternatives do not exist:

Attached are floor plans and site plan illustrating the location of the existing house on the property and the three floors of the existing house. The existing conditions are significant to this setback reduction as the house was built to the existing setbacks on the south, west, and north sides.

The house is located between the busy Hemlock street to the east and quieter Forrest Lawn to the west. Access to the beach is best from the Forrest Lawn side, but is currently limited to a door on the north side of the ground floor. As a matter of safety, it would be desirable to have an additional exit from the second floor, allowing third floor occupants an alternative to exiting to the front door in the event of an emergency. Any access to the north would require a significant interior remodel to the floor plan and a similar setback reduction – not a reasonable alternative.

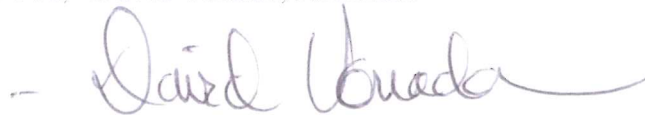
The existing second floor deck is at both the side yard setback to the south and rear yard setback to the west. There is no alternative to adding a stair to the south or west without a setback reduction or reducing the deck to an unusable size.

The suggested alternative of a portable ladder is not recognized as a legal means of egress per the building code and is not a safe alternative for the owners.

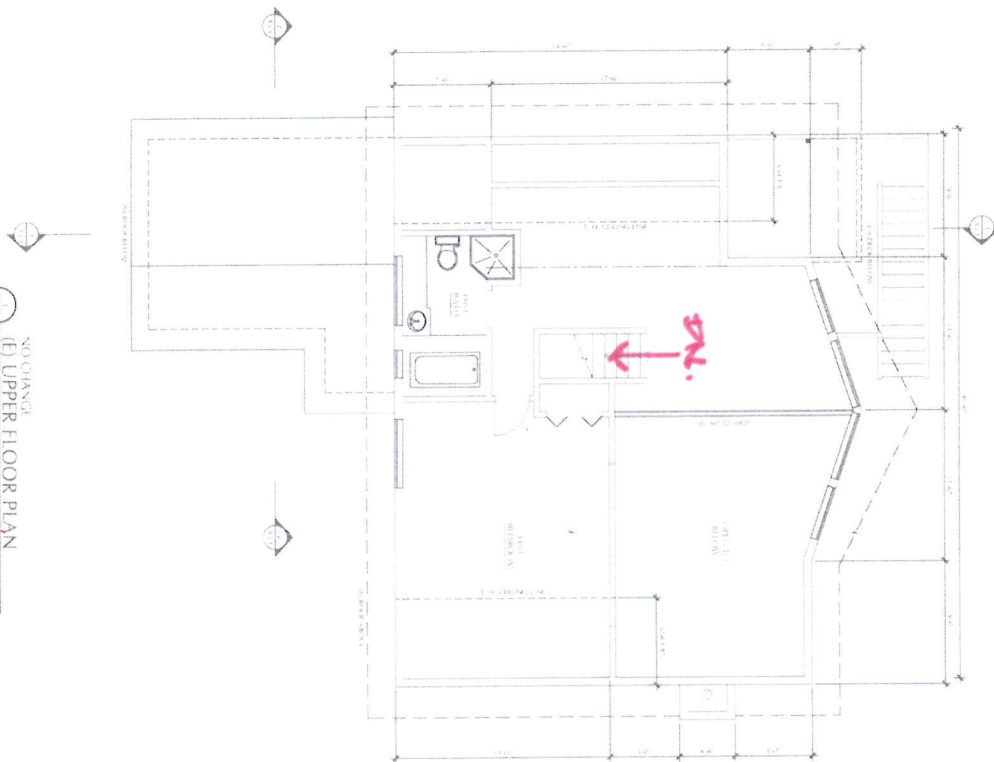
The setback reduction of 3'6" is the minimum necessary to add a stair to the second floor deck. This will reduce the rear yard setback from 15 feet to 11'6", although due to the road improvements to Forrest Lawn being located on the westerly side of right of way, the perceived setback will be more than the 11'6" asked for.

We feel, as do the surrounding neighbors, that this setback reduction is the most reasonable solution for this project.

Thank You, David Vonada, Architect

A handwritten signature in purple ink that reads "David Vonada". The signature is fluid and cursive, with a long horizontal flourish extending to the right.





NO CHANGE
 (D) UPPER FLOOR PLAN

DESIGN REVIEW SET

A1.2

UPPER FLOOR
PLAN &
ROOF PLAN

NO. 1	DATE	DESCRIPTION
1	01/15/2021	UPPER FLOOR PLAN
2	01/15/2021	UPPER FLOOR PLAN
3	01/15/2021	UPPER FLOOR PLAN
4	01/15/2021	UPPER FLOOR PLAN
5	01/15/2021	UPPER FLOOR PLAN
6	01/15/2021	UPPER FLOOR PLAN
7	01/15/2021	UPPER FLOOR PLAN
8	01/15/2021	UPPER FLOOR PLAN
9	01/15/2021	UPPER FLOOR PLAN
10	01/15/2021	UPPER FLOOR PLAN
11	01/15/2021	UPPER FLOOR PLAN
12	01/15/2021	UPPER FLOOR PLAN
13	01/15/2021	UPPER FLOOR PLAN
14	01/15/2021	UPPER FLOOR PLAN
15	01/15/2021	UPPER FLOOR PLAN
16	01/15/2021	UPPER FLOOR PLAN
17	01/15/2021	UPPER FLOOR PLAN
18	01/15/2021	UPPER FLOOR PLAN
19	01/15/2021	UPPER FLOOR PLAN
20	01/15/2021	UPPER FLOOR PLAN

ADDITION PLANS FOR:
 THE HENRY RESIDENCE
 1688 S. HEMLOCK
 CANNON BEACH, OREGON

PERMIT SET



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



City of Cannon Beach
Building Codes Division
Tree Permit Applications
December 2021

Date	Permit #	Name	Location	Permit Fee Paid	Notes	Number Removed	Number of dead/dying removed	Required to Replant
12/2/2021		Tremayne	196 Hills Ln	50.00			1	0
12/6/2021		City of Cannon Beach	Across from 197 E Madison	0.00			2	0
12/29/2021		Hogueisson	164 Ross Ln & 163 Hills Ln	50.00	Emergency Removal		2	0
12/16/2021		Gieselman	415 Kimberly Ct.	50.00	Emergency Removal		1	0
12/7/2021		Tolovanna Inn	3400 S Hemlock	50.00	Emergency Removal		1	0
12/29/2021		Feldmeier	132 E. Jackson	50.00	Emergency Removal		1	0
Number of Native Trees Planted by City Staff: 0								

