



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: **Tuesday, December 21, 2021**
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 November 23, 2021**
If the Planning Commission wishes to approve the minutes, an appropriate motion is in order.

ACTION ITEMS

6:05 (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**

AA 21-02, 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.

6:25 (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.

6:45 **(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.

INFORMATIONAL ITEMS

7:10 **(6) Tree Report**

(7) Ongoing Planning Items:

**Transportation System Plan: @ www.cannonbeachtsp.com;
Council Retreat**

(8) Good of the Order

7:15 **(9) 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: December 14, 2021

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:

View our [Live Stream](#) on YouTube!

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**
Tuesday, November 23, 2021

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

Excused:

Staff: Director of Community Development Jeff Adams, Land Use Attorney Bill Kabeiseman, 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: Knop moved to approve the agenda as presented; Kerr seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of October 28, 2021

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

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

(3) Continuation and Consideration of ZO# 21-02, City of Cannon Beach request, for Subdivision and Zoning Ordinance Text Amendments.

ZO 21-02, City of Cannon Beach is requesting Subdivision & Zoning Ordinance text amendments. The proposed amendments revise language restricting lot combinations, limiting single-family residential dwelling size, and further restricting lot coverage and floor area ratios for all residential districts, while repealing planned development language. The request will be reviewed under Cannon Beach Municipal Code 17.86.070 Amendments Criteria.

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 full staff report in the packet for details). Adams thanked everyone for bearing with the technical difficulties during the last meeting. He said that the Planning Commission had asked him to bring back language to make the current preexisting and nonconforming language consistent. The current nonconforming structure language does not allow a structure that is destroyed by a fire, or any force outside the owner's power, to be rebuilt as it was prior to that destruction. The proposed language would allow an owner in such a circumstance to build back the existing (nonconforming) structure. Adams noted that there had been some discussion as to why 3,500SF was picked as the max size for structures. He noted that an option was brought before the PC for scaling from 5,000 down to 3,000. The PC decided to go with one cap for all residences and came to agreement at 3,500SF. Adams also noted a request from Jan Siebert-Wahrmund to speak during public testimony.

Kerr thought they should clarify floor area vs gross floor area in the new language.

Adams said that the language was referring to the structure that was already there. Adams said that when they make a recommendation to the City Council, they can add gross in front of floor area.

Kerr asked if fair market value included the land as well as the structure.

Adams said that it was only for the structure.

Kerr thought that should be clarified in the language as well.

Newton asked for clarification on what would happen if a building that did not conform to the setbacks burned down or was similarly destroyed. Would the owner be able to be built it back where it was?

Adams clarified that yes, they would be able to.

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 anyone had additional concerns.

Kerr reiterated wanting clarification of fair market value of the building and gross floor area.

Jan Siebert-Wahrmund, PO Box 778 Cannon Beach. Seibert-Wahrmund read a letter from herself and her husband, Wes (the full letter is attached at the end of these minutes for reference). The letter stated that they support the prohibition of the combining or recombining of lots. They also support getting rid of Planned Developments. They felt that the FAR should be limited to 2,000SF, including accessory structures, for lots of 6,499SF or less with grading up to 2,500 SF for lots larger than 6,499SF. They felt these limits would allow more trees to be preserved in the community.

Chair Johnson called for comments from the Planning Commission.

Kerr said that she is in agreement with Seibert-Wahrmund but she thinks that she is in the minority. She thinks that 3,500SF is very big.

Bernt said that it depends on what the FAR includes. He said that if it includes the garage that will jack the SF up pretty high. He thought 3,500SF might be more than necessary, but not that much more than necessary. He noted that at one point garages did not count against square footage. He said that he thought the rules they had were effective.

Newton said that one of the questions is scale. He looks at these changes as a placeholder that they can look at dealing with more effectively during the code audit. He thinks that a larger home would not look out of place in scale in some places, such as a large lot on the other side of 101. He thinks that they can come up with something more equitable later.

Kerr said she could accept that train of thought as making a lot of sense.

Johnson said that there seemed to be agreement with the Council in the joint session.

Newton said he thought he heard lower numbers at the joint session, but that this issue needs a deeper dive.

Kabeiseman clarified this is not a moratorium but a measure that can be fine-tuned in the future.

Newton noted that they have professionals to work with.

Patrick asked if they the current FAR includes garages.

Adams said that it does.

Patrick was concerned that people will opt not to build a garage to maximize their square footage.

Adams pointed out that whether or not they have a garage they will be required to have two parking spaces on their property.

Kerr did not think that people would do that because they use garages for various reasons.

Patrick said that she would rather see people use their garages as parking spaces than see cars in the driveway.

Bernt said that the Planning Commission is dealing with a lot of the current issues by not allowing people to combine lots.

Newton still had concerns about the preexisting language and asked for clarification. He thought the word *prior* could be broadly interpreted.

They discussed the proposed language and clarified that a structure that is destroyed could be rebuilt to the setbacks and FAR that existed prior to the structure being destroyed.

Chair Johnson asked if anyone would like to make a motion.

Newton asked how someone would make a motion to show that this is something that they wanted to revisit.

Kabeiseman suggested that if the PC is not comfortable with the proposed language they should continue it to the next meeting.

Motion: Kerr moved to recommend the proposed language to City Council with changes to include the word *gross* before *floor area* and to clarify fair market value by stating 'fair market value of the structure'; Bennett seconded the motion.

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

Johnson stated that it is passed on to the City Council.

(4) Continuation and Consideration of 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.

AA 21-01, 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.

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 detail). Adams noted that there were comments received after the deadline, however, staff did not recommend reopening the record. Adams reminded the PC that they have the option to request tentative findings if they wish to review them. He also asked them to point out anything they would like to have addressed specifically in the findings.

Patrick asked if the Harding garage was originally approved.

Adams said that it was approved after the PUD was approved.

Johnson said that the heart of the discussion is if the loft of the garage is counted as finished. He said that from the pictures he has seen it looks like a finished loft area. He wanted to know how everyone else feels about that.

Kerr said that she agreed. She cannot imagine a storage space for a loft that is as nice as this one. She said that they mention it as potential office space in an add to sell the house.

Johnson said he had a loft in Portland that did not look as nice as this.

Kerr said that she thought that it was approved because once someone starts building something it is hard to go back. She thinks it is habitable and counts towards FAR. She thinks the appeal has merit. She also agreed that the singular language related to garages limited the property to one garage.

Newton said that he agreed. He thought the space was clearly finished. He voiced a concern with making sure that they are being equitable and not frustrating the building process for Mr. Najimi.

Kerr said she feels very objective about this. She thought the appeal arguments made complete sense. She is not sure how this will affect the people involved. She thinks that this is their chance to apply the conditions.

Kerr did not think that the threat of a lawsuit should come into their consideration. She thought that the Council made the decision that they did in the past under fear of a lawsuit.

Newton said that he hoped to provide a path forward and asked if the building permit could be approved if the garage was taken out.

Adams said that it could.

Newton asked Kabeiseman if there was a way to word their decision to provide a path forward and include conditions under which it could be approved. He suggested saying something like if garage is removed then it can be built.

Kabeiseman said he had concerns about saying if you do this then it is approved. He suggested that if they have issues with it, they should clearly state what is wrong. He believes that that provides a path without saying if you do this then it is approved. He noted that whoever does not win here will likely appeal the decision.

Patrick said that that is an excellent suggestion.

Kabeiseman suggested looking at the motion wording that Adams provided and using that when making a motion.

Motion: Patrick moved to tentatively reverse the administrative decision to approve a Development/Building Permit for 544 N. Laurel St.; Kerr seconded the motion.

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

(5) Public Hearing and Consideration of AA# 21-02, Haystack Rock LLC request, for an Appeal of an Administrative Decision to approve a development permit.

AA 21-02, 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 there was a request for a continuance from Mr. Rasmussen. He noted that Kabeiseman recommended hearing testimony from those who are here tonight and then continuing with written comments only or allowing testimony at the next meeting. He said that they can alter the 7-7-7 rule to accommodate the Thanksgiving Holiday.

Patrick asked when 120 days would be up. They will be up on February 2, 2022.

Adams noted that this lot is not a wetland lot of record.

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.

Fred Wilson with Kellington Law Group representing Stan and Rebecca Roberts. Wilson said that the Roberts wanted to build a 2,700SF house. The denial of the building permit for that house has been brought before LUBA, where the City's decision was upheld. That decision has been appealed. He noted that this permit is only for the stability beam and not the driveway or the house. If they build the "tiny house" (a smaller house for which a second set of plans has been submitted) the stability beam would be west of the house and would be completely separate. If they are not able to build at all the stability beam will still support the property. Wilson said that this is not a way to try to get approval for the house. He discussed the Geo Hazard Reports and noted that the standards have been met. Wilson said that most of the arguments raised in the appeal do not address these criteria and so are not relevant. He noted that they do not need to build a driveway to put in a stability beam. All they need for the stability beam is a right-of-way permit. Wilson offered to answer any questions.

Kerr said the house in the second application is about 1300 SF. She asked why they keep referring to it as tiny house. She said that international residential code defines a tiny house as 400-600 SF and a small house as 600-1000 SF.

Wilson agreed and said that it was referenced as that in the application, but he should probably call it the smaller house.

Newton asked what kind of right-of way permits they would need if the driveway were being developed.

Wilson said that he was not sure, he would probably have to have his engineers come in and talk about that. He reiterated that for the stability beam they would need a standard right-of way permit to remove the guardrail and use the existing driveway. Wilson commented on the continuance of the hearing and said that they would prefer that the record was left open for written comment, without another hearing. He said they would support it being open for a longer period of time because of the holiday.

Johnson said that using a 10-7-7 model would work.

Kabeiseman suggested getting input from other people throughout the meeting.

Chair Johnson called for opponents of the request.

Will Rasmussen. Rasmussen commented on the continuance stating that 10-7-7 sounded good to him with a potential option for brief 3-5min arguments at the next meeting.

Johnson said he would allow oral no longer than 10min.

Rasmussen said stability is part and partial to the house and should be treated as such. He noted that the location of the stability beam is in conjunction with the larger house they have planned and hope to build. He also noted that the Roberts have told the City and the press that they have no intention of building a smaller house. He read from an article in the Astorian where Mr. Roberts says he does not want to build a smaller house. Rasmussen said that the PC should consider that the primary purpose of this application is to build a house that has been denied. He said that access and staging needs to be part of the approval and needs to be considered by City Council because the proposed work affects unimproved Nenana Ave. He also said that if they decide to move forward, as staff suggests, they should attach conditions including the conditions that the stability beam should not be approved until the impacts on Nenana are considered and that no structure should be attached to the stability beam.

Chair Johnson asked for other opponents. There were none.

Chair Johnson asked for a last statement from the applicant.

Wilson reiterated that the only way they would use the stability beam for the larger house is if the Court of Appeals reverses the LUBA decision. He also reiterated that the arguments in the appeal do not have to do with the criteria for the development permit.

Chair Johnson asked for further staff response.

Adams suggested that conditions for approval could require that they do not attach to the stability beam in the oceanfront setback. In relation to Rasmussen's comments that the guardrail removal go before City Council, Adams said that was not his understanding but he and Kabeiseman will look at that. He noted that the City uses that same access to work on drainage in the area. Adams reiterated that this is only access to put in the stability beam, but not for the driveway.

Johnson asked if the stability beam can be put in the Oceanfront Setback.

Adams said that it could because it is not above 30".

Kabeiseman outlined the dates for written comment related to AA21-02. The first ten days for comment will end on Friday Dec 3rd and are for any party to submit. Seven days from that is Friday, Dec. 10th at 5pm, and this period is for rebuttal to new evidence. The last seven days are for the applicant to submit final argument, that period ends on Friday Dec 17th. On December 21st the PC will hear limited oral arguments limited to 10min for each party.

(6) Public Hearing 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.

Adams read his staff report (see staff report in packet for full details). He noted that many homes on Forest Lawn have received setback reductions in the past. He said that the proposed work does not seem to affect any views and should not have an impact on solar access. Adams said that he had a question about why the staircase is necessary and said that Vonada could speak to that.

Chair Johnson asked if there was any additional correspondence. There was none, there were many commends, but they are all included in the material that the Commissioners have received.

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.

David Vonada PO Box 648 Tolovana Park. Vonada said that he is representing the Henrys. He reiterated the points Adams made in his Staff Report. Vonada said that this property is really sandwiched between Forest Lawn and Hemlock. It is fronted on Hemlock and would be better served being accessed from Forest lawn. Vonada said that the Henrys use Forest Lawn as access to the beach and would like to improve that access. He noted that they have received several letters of approval from neighbors. He also noted that the ROW is off center to the street, providing more buffer space around the property in addition to the setback. He spoke to Adams' question about alternatives. He said that if they cannot add a stair, they would likely opt not to reduce the size of the deck. He thought that a reasonable alternative would be to not have a stair in order to retain a reasonable sized deck. He said that that is an alternative, but one that is less desirable. Vonada reiterated that there is no significant impact on the neighborhood and asked if there were any questions.

Johnson asked when the house was built.

Adams said it was built in 1991.

Johnson asked what the square footage of the deck was.

Vonada said the deck is about 11 x 11.

Johnson said the deck looked very small. He asked what the pressing need for a larger deck is if they have lived with it for this long.

Vonada said that safety is an issue and the only place for this stair is on the west side.

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

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

No further response from staff.

Chair Johnson closed the hearing and moved to consideration.

Bennett said that it sounded like a reasonable request for safety purposes since it would allow them to get out of the house from the second floor.

Kerr wished the application was more fleshed out. She did not see criteria F addressed in the application. She thought that they should not rely on the fact that other people do it but should rely on the criteria.

Johnson thought they were hopping on to the fact that the PC has been lenient in this area.

Knop said that she thought the safety issue was a reason they should accept it.

Johnson said there are other ways to address that, he has a collapsible ladder.

Kerr just wished that had been fleshed out more.

Adams asked if she would entertain a continuance for more information on that.

Kerr said that she would. She suggested a continuance so that criteria F could be fleshed out.

Kabeiseman asked if they would prefer it be continued in writing or to a hearing.

They decided to continue the hearing to the next meeting on Tuesday, Dec. 21st.

INFORMATIONAL ITEMS

- (8) Tree Report**
No comments.

(9) Ongoing Planning Items

Adams said that the Code Audit will begin in January. The TSP will also be moving into the third phase so more should be out on that next year (@ www.cannonbeachtsp.com).

(10) Good of the Order

Johnson noted the commissioner terms that will be coming to an end next year. There will be several members who will be reaching the end of their term. He encouraged people to keep an eye out for possible replacements in the community.

ADJOURNMENT

The meeting adjourned at 7:52 pm.

Administrative Assistant, Katie Hillenhagen

October 28, 2021

Dear Planning Commissioners,
Regarding Zoning Ordinance # 21-02, we
support the following:

- First, the prohibition of combining or recombining parcels & lots in Cannon Beach.
- Next, the repeal of Planned Unit Developments (PUD's) in Cannon Beach once & for all.
- Finally, & very importantly, the limiting of floor area ratios (FAR's) to only allow a total of 2,000 square feet of all single-family dwellings, including any accessory structures, on lots of 6,499 square feet or less. On lots larger than 6,499 square feet, the total allowed would be 2,500 square feet, including any accessory structures. These smaller home sizes would encourage significantly more trees to be preserved in our community.

The 'village character' of Cannon Beach featured in our Comprehensive Plan, & the 'wooded character' of Cannon Beach, highlighted in our Municipal Code Tree Ordinance, are at stake.

Thank you.

Jan Siebert - Wahmumund
Wes Wahmumund
P.O. Box 778
Cannon Beach, Oregon
97110



Cannon Beach Planning Commission

Staff Report Addendum

(Received by Close of Business, December 3, 2021):

NEW EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 5, 2021 unless otherwise noted.

“A” Exhibits – Application Materials

- A-2** Rasmussen letter of request for continuance, dated November 23, 2021;
- A-3** Appeal reveals clash in Cannon Beach over oceanfront development, by Katie Frankowicz, article in the Astorian, November 15, 2021, submitted for the record by Will Rasmussen, November 23, 2021;
- A-4** Rasmussen letter RE: AA# 21-02; Appeal of Administrative Decision Approving Application #DP21-20 for Construction of a Piling and Stability Beam Foundation on Tax Lot 51031AA00600 (the “Beam Application”), dated December 3, 2021;
- A-5** Tolovona Park Plat Map, Rasmussen submitted exhibit, December 3, 2021;
- A-6** Easement Agreement, Rasmussen submitted exhibit, December 3, 2021;
- A-7** Roberts Original Residence Plans, Rasmussen submitted exhibit, December 3, 2021;
- A-8** Roberts Temporary Staging Area Plans, Rasmussen submitted exhibit, December 3, 2021;
- A-9** Rondema Geotech Report, Rasmussen submitted exhibit, December 3, 2021;
- A-10** Roberts Original Engineered Residence Plans, Rasmussen submitted exhibit, December 3, 2021;
- A-11** Morgan Engineering Plans, Rasmussen submitted exhibit, December 3, 2021;
- A-12** Roberts Construction Schedule, Rasmussen submitted exhibit, December 3, 2021;
- A-13** Clemow Assoc. Traffic Study, Rasmussen submitted exhibit, December 3, 2021;
- A-14** Collected Materials, Rasmussen submitted exhibit, December 3, 2021;

“B” Exhibits – Agency Comments

None as of this writing

“C” Exhibits – Cannon Beach Supplements

NOTE: Supplemental Materials are available on the Cannon Beach website, under the ‘Alternative’ Building Permit Submission on behalf of Stan and Becky Roberts Taxlot# 51031AA00600 (<https://www.ci.cannon-beach.or.us/planning/page/alternative-building-permit-submission-behalf-stan-and-becky-roberts-taxlot>)

“D” Exhibits – Additional Public Comment

- D-5** Cameron La Follette letter on behalf of Oregon Coastal Alliance, received December 2, 2021;
- D-6** Wendy Kellington letter on behalf of Stan & Rebecca Roberts, received December 3, 2021;
- D-7** Jay Raskin letter on behalf of Stan & Rebecca Roberts, received December 3, 2021;
- D-8** Kellington submitted exhibit, Exhibit 1 of 3, received December 3, 2021;
- D-9** Kellington submitted exhibit, Exhibit 2 of 3, received December 3, 2021;
- D-10** Kellington submitted exhibit, Exhibit 3 of 3, received December 3, 2021;

Note:

Due to the size of the exhibits for this staff report addendum they are being provided electronically.

To view the exhibits related to this file please use the link below;

https://www.ci.cannon-beach.or.us/sites/default/files/fileattachments/planning_commission/page/36464/211206_combined_exhibits.pdf



Cannon Beach Planning Commission

Staff Report Addendum

**(Additional Materials received by Close of Business,
December 10, 2021):**

NEW EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 5, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

No new submissions

"B" Exhibits – Agency Comments

None as of this writing

"C" Exhibits – Cannon Beach Supplements

NOTE: Supplemental Materials are available on the Cannon Beach website, under the 'Alternative' Building Permit Submission on behalf of Stan and Becky Roberts Taxlot# 51031AA00600 (<https://www.ci.cannon-beach.or.us/planning/page/alternative-building-permit-submission-behalf-stan-and-becky-roberts-taxlot>)

"D" Exhibits – Additional Public Comment

D-11 Fred Wilson letter, via email on behalf of Stan & Rebecca Roberts, dated December 10, 2021;

STAFF COMMENTS

Concern was raised during the hearing that the stability beam is not distinctly separate from the building foundation. Staff offers the following tentative motion to **modify in part** the administrative decision to further clarify that any future structures would not be able to attach to the stability beam west of the Oceanfront Setback Line.

PLANNING COMMISSION ACTION

If the Commission wishes to review the Findings prior to final approval:

TENTATIVE MOTION: Having considered the evidence in the record, upon a motion by Commissioner _____ and seconded by Commissioner _____ to **tentatively modify in part** the administrative decision to conditionally approve Development Permit DP#21-20 for stabilization pinning of a geologic hazard area on taxlot# 51031AA00600, the Cannon Beach Planning Commission, and **APPROVES IN PART** application number **AA#21-02 Administrative Appeal**, as discussed and requests staff to draft findings based on the following modifications, for review and adoption, at a special called meeting, next Thursday at 6PM, December 2nd at City Hall:

1. No structure is permitted to attach to the stability beam westward of the Oceanfront Setback Line.
2. Any access and staging must be approved through a City Right-of-Way permit prior to construction of the stability beam.

If the Commission does not wish to review the Findings prior to final approval:

MOTION: Having considered the evidence in the record, upon a motion by Commissioner _____ and seconded by Commissioner _____ to ***modify in part*** the administrative decision to conditionally approve Development Permit DP#21-20 for stabilization pinning of a geologic hazard area on taxlot# 51031AA00600, the Cannon Beach Planning Commission, and **APPROVES IN PART** application number **AA#21-02 Administrative Appeal**, as discussed, based on the following modifications:

1. No structure is permitted to attach to the stability beam westward of the Oceanfront Setback Line.
2. Any access and staging must be approved through a City Right-of-Way permit prior to construction of the stability beam.



Fred Wilson
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Lake Oswego OR
97034

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Mobile (503) 409-7670
Facsimile (503) 636-0102
Email: fw@klgpc.com

December 10, 2021

Via Electronic Mail
City of Cannon Beach Planning Commission
C/O Jeff Adams
Planning Director
City of Cannon Beach, OR

RE: Roberts Development and Grading Permit – File No. DP#21-20

Dear Jeff:

As you know, this firm represents Stan and Rebecca Roberts in the above captioned case. Please include this letter in the record for the Planning Commission appeal for this case.

At the November 23, 2021 Planning Commission public hearing, the Planning Commission left the record open ten days for the submission of new evidence, testimony, and argument; seven additional days for responses to any new evidence, testimony, and argument; and seven additional days for the applicant's final legal argument. This letter provides evidence, testimony, and argument for the second open record period to respond to new evidence, testimony, and argument.

RESPONSE TO NEW EVIDENCE

During the initial open record period two opponents submitted letters and materials: Haystack Rock LLC (Haystack LLC) and the Oregon Coastal Alliance (OCA). This letter responds to those submissions.

A. Haystack LLC Letter

Haystack LLC essentially repeats the arguments it made before and during the public hearing. Haystack LLC's arguments are not directed towards any relevant

approval criteria, and the only evidence in the record demonstrates that the relevant approval criteria are satisfied. Under well settled law, the City is only allowed to approve or deny the application based upon relevant standards and criteria in the City code and must make a decision based upon substantial evidence in the record. ORS 227.173(1); ORS 197.835(9)(a). Haystack LLC's arguments are not directed at any relevant approval criteria and therefore do not provide a basis to deny the application.

Despite the fact that the only evidence in the record is to the contrary, Haystack LLC asserts that the proposed stability beam – the only application at issue in this case – is not a stability beam designed to support the lot itself, with the potential to also help support a home, but can only exist to serve as the foundation for a particular house. The evidence, however, only shows that the stability beam is sought at this time to stabilize the lot and that it will stabilize the lot. Haystack LLC argues that the foundation of a house cannot be approved separately from the house they erroneously speculate is the only purpose served by the stability beam. Haystack LLC argues that the plans the Roberts submitted in their application for a development permit for a 2700 square foot house (that the City denied) show the house tying into the stability beam and that this somehow shows that the stability beam can only serve that house and that the Planning Commission should ignore the undisputed fact that the stability beam is independently useful to support the lot regardless of whether a house is ever built on it. That inconvenient fact is the **only** evidence in the record - the proposed stability beam has independent utility to support the lot itself and provides that desired stability to the lot regardless of whether any house or anything else is developed on the subject lot. The stability beam is designed and gauged to support the lot. The weight of the potential 2700 square foot house is negligible compared to forces involved in stabilizing the lot, so the stability beam would have more than adequate ability to also help stabilize a house. The main purpose of the stability beam is to stabilize the lot, regardless of whether a house is ever built or not. The fact that the stability beam could also help support a particular house is just an added bonus.

The Roberts family has repeatedly stated that ideally the Court of Appeals will reverse the Land Use Board of Appeals (LUBA), and their 2700 square foot house will be approved. In that case, the house likely will tie into the stability beam. The

stability beam, however, is not merely an extension or component of the foundation of that home. The stability beam is an independent protective feature that is designed to and will protect the stability of the lot regardless of any other development. As the materials the Roberts submitted during the first open record period irrefutably demonstrate, plans for an approximately 1200 square foot house were submitted in a separate proceeding and that house would not tie into the proposed stability beam. Therefore, it is an inescapable conclusion that the proposed stability beam is not just a foundation for a house – instead it will provide stability to the lot regardless of what is ultimately built.

Haystack LLC again cites a newspaper article where Mr. Roberts expressed his frustration with the planning process and then asserts the Roberts have no intention of building the 1200 square foot house. Despite opponents' personal attacks, what house the Roberts ultimately build on their lot has nothing to do with this application. Both the City's code and state law only allow approval or denial of the requested stability beam to be based upon standards and criteria that are expressed in the City's code. ORS 227.173(1). The size of a house that someone ultimately wants to build on their property is not a relevant approval standard for a stability beam – which the only evidence in the record demonstrates will stabilize the lot regardless of what is ultimately built. Therefore, the size of any house that may be built is irrelevant to this application.

Haystack LLC also reasserts with no citation to any approval criterion that the Roberts cannot install the stability beam due to access, driveway, or Inspiration Point staging area restrictions. This is incorrect. As explained in our December 3, 2021 letter, the Roberts do not need a driveway permit (which has been sought in a separate application) or the use of any part of Inspiration Point as a staging area to install the stability beam. As the November 29, 2021 letter from architect Jay Raskin explains, the stability beam can and will be installed “using small equipment that can be transported on a trailer and lowered down to the existing track that provided access to the original house.” The only evidence in the record is that the driveway permit is unnecessary for approval of the requested stability beam.

Finally, Haystack LLC argues that if the stability beam is approved that the Planning Commission should impose a condition of approval that would prevent the stability beam from being connected to any house in the future. Haystack LLC

provides no basis for imposing this condition of approval and there is none. The subject property is zoned R-5 - Residential, and eventually a house is going to be built. Any house deserves to be on a lot that is stable. A future house may or may not tie into the stability beam. There is no basis for prohibiting the Roberts' perfectly legal stability beam from supporting or tying into a perfectly legal house. Because the law is clear that the decision on the application for a stability beam and any conditions of approval must be tied to standards and criteria in the city's code, Haystack LLC's request for such a condition of approval should be denied. ORS 227.173(1). Furthermore, conditions of approval must have an "essential nexus" to an approval criterion, and there is no approval criterion (and Haystack LLC does not cite one) that provides any nexus to such a condition. *Nollan v. Calif. Coastal Comm'n*, 487 U.S. 825 (1987). If the appellate courts reverse LUBA and the 2700 square foot house is approved, then there is no standard that prohibits that house from tying into the stability beam and the City may not impose such a condition of approval in the current application. Any house that will ultimately be approved must also only be approved or denied based upon standards in the City code that are clear and objective. There is no standard in the City code, clear and objective or otherwise, that would prohibit a house on a residential lot from tying into a stability beam. Therefore, there is no basis for such a condition. If the appellate courts do not reverse the City's denial of the Roberts' 2700 square foot home, the only evidence in the record is that the stability beam has independent utility to stabilize the lot for the 1200 square foot house the Roberts have sought (which will not tie to it, but certainly benefits from the lot being supported) or any other development or if the lot is not developed.

Haystack LLC's arguments do not provide any basis to deny the application.

B. Oregon Coastal Alliance Letter

OCA's letter makes the same arguments as Haystack LLC. OCA seeks a denial that is not based on any approval criteria in the City code. OCA's letter also provides no basis for denial or for the imposition of any conditions.

OCA repeats the arguments made by Haystack LLC that the stability beam cannot be approved independently of the foundation of the proposed larger house and

therefore cannot be approved in this application. The only evidence in the record is that regardless of whether any development is ever approved on the lot, the stability beam provides independent support for the subject lot and adds stability to the lots around it as well as Hemlock Street above. Presumably, an organization that supports a healthy Oregon Coast would support stabilizing lots on active landslides to avoid the potential for sloughing of pavement, construction detritus, and other undesirables to the ocean shore below.

Regardless, as with Haystack LLC, OCA does not provide any authority for its position. OCA's entire argument rests on the false proposition that the proposed stability beam has no independent utility and can only be the foundation for the 2700 square foot home the City denied. While the proposed stability beam could and likely would support that house (it would hardly be the main foundation for the house), as repeatedly explained – the stability beam first and foremost serves to stabilize the lot, which is a necessary predicate to any development or even no development. There is just no dispute that the proposed stability beam serves a purpose independent from potential support of a particular home.

OCA's argument does not provide a basis for denying the application.

CONCLUSION

This application only seeks only approval of the proposed stability beam which will serve to stabilize the subject property. This application does not involve the approval of any house. As the Community Development Director makes clear, the approval criteria for activities in a geologic hazard area and for a grading permit are the only criteria at issue in this case. As the Community Development Director's decision also makes clear, the Roberts have demonstrated that those relevant approval criteria are satisfied. Opponents do not challenge compliance with any of the applicable approval criteria, but instead raise a host of issues that are irrelevant to the stability beam application and that do not refute the only evidence in the record. The Community Development's Director's decision is sound, and we respectfully request that it be affirmed.

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Wilson".

Fred Wilson

WFW:wfw
CC: Clients



Cannon Beach Planning Commission

Staff Report Addendum (as of noon December 14, 2021):

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: December 21, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

No new information was received by noon deadline, of December 14, 2021

BACKGROUND

The Planning Commission continued the agenda item until the December meeting to allow the applicant time to provide more information regarding Cannon Beach Municipal Code section 17.64.010.A4, below:

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 proposal would extend this to external access, but other than a mention of improved fire/safety access from Forest Lawn, doesn't offer an explanation of why it is necessary.

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:

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):



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

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 100' of the exterior boundaries of the property.

DISCLOSURES

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

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on December 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;

"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 as 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, 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# 21-04 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 January 27, 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 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:

l. 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: _____
EC69188E6D194C4...

Date: _____
Date: 11/22/2021

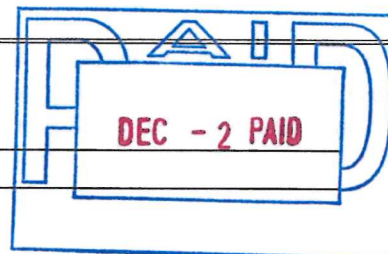
If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

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

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

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





CITY OF CANNON BEACH

November 29, 2021

CU 21-02, 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,

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 public hearing on **Tuesday, December 21st, 2021** at **6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

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 51030DA04100 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 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.

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

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

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**

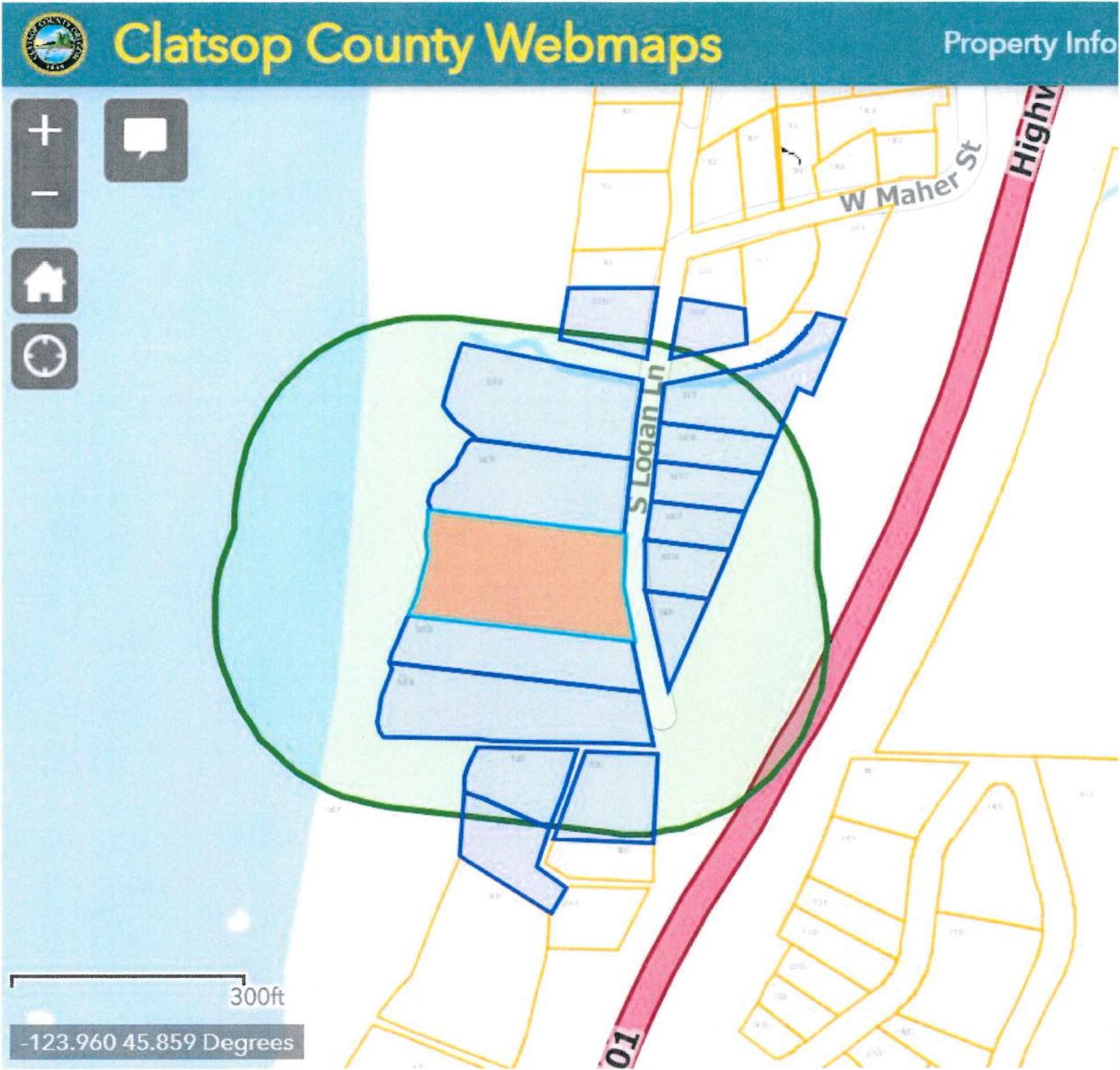


**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- 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	Thomas Raymond F		18820 SW Gassner Rd Aloha, OR 97007
Dinsdale Grace K	Andrea Davidson		PO Box 447 Cornelius, OR 97113
Heidi Hanson	LBC Trust The		13465 NW Overton St Portland, OR 97229
Smith Mark Trustee			PO Box 340020 Nashville, TN 37203-0020
Peterson Robert B/Mary Ann			PO Box 85 Tolovana Park, OR 97145

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.

Edited Map

Write a description for your map.

Gossard Project

CORBLE BEEM →

WILLOW PLANTING

STATE VEGETATION LINE

4664 Logan Ln

Logan Ln

Logan Ln

Legend

- 4664 Logan Ln
- Feature 1
- Feature 2

Google Earth

100 ft



6/4/15

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.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.oregon.gov>; Jeffrey Adams <adams@ci.cannon-beach.or.us>; TAYLOR Trevor * OPRD <Trevor.TAYLOR@opr.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.coastalatlus.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

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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@oprd.oregon.gov>
Cc: PARKER Ryan * OPRD <Ryan.PARKER@oprd.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@oprd.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@oprd.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

