



CITY OF CANNON BEACH

AGENDA

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

Meeting: Planning Commission
Date: **Thursday, October 28, 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 September 23, 2021**
If the Planning Commission wishes to approve the minutes, an appropriate motion is in order.

ACTION ITEMS

6:05 (3) **Public Hearing and Consideration of CU# 21-02, Joe Mansfield request, for a Conditional Use Permit to operate a privately-owned campground.**

CU 21-02, Joe Mansfield request for a Conditional Use permit for Privately Owned Campgrounds to create an eco-retreat featuring 8-10 lightweight geodesic domes. The property is located on Reservoir Road (Tax Lot 00500, Map 51029CA) in an Open Space/Recreational (OSR) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.28 Open Space/Recreational & 17.80 Conditional Uses.

6:25 (4) **Public Hearing 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.

- 6:55 (5) **Public Hearing and Consideration of AA# 21-01, Greg Hathaway request, on behalf of Jeff & Jennifer Harrison, for an Appeal of 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.

INFORMATIONAL ITEMS

- 7:30 (6) **Tree Report**

- (7) **Ongoing Planning Items:**

**Transportation System Plan: Interactive Online Open House, October 1-31st,
@ www.cannonbeachtsp.com;**

- (8) **Good of the Order**

- 7:50 (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: October 21, 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.

Agenda Item 2

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, September 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 and City Recorder Jennifer Barrett

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

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

(2) Consideration of the Minutes for the Planning Commission Meeting of October 22, 2021

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

Vote: Newton, Knop, Bernt, Bennett, Patrick and Chair Johnson voted AYE; the motion passed.
Kerr abstained as she was not present at the meeting.

(3) Public Hearing and Consideration of VAC#21-01, Clatsop County request, for a Vacation of portions of platted and unimproved Pine and Alder Street right-of-ways in the Seal Rock Beach Subdivision.

Clatsop County request to vacate portions of platted and unimproved Pine and Alder Street right of ways in the Seal Rock Beach Subdivision, according to chapter 12.31 Street and Alley Vacation of the Municipal Code. The property is located on all of Alder Street lying northerly of the easterly extension of the south line of Lot 7, Block 9, and all of Pine Street lying northerly of the easterly extension of the south line of Lot 11, Block 10, in the Town Plat of Seal Rock Beach, Book 0, Page 77, Clatsop County Town Plat Records, in the Open Space (OS) zone. The request will be reviewed under Cannon Beach Municipal Code, Section 12.32.030, Street and Alley Vacation, review criteria, in accordance with ORS 271.005-271.160.

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. In response to Johnson's question is this property state controlled or state owned currently, Adams replied currently it's a platted street and they are asking that the city to vacate that property. It was deeded over to the city with the plat, and they are requesting us to vacate. The county manages it but they are having difficulties. In response to Johnson's question could someone build there, Adams replied no it is a right-of-way so we would not allow it. Adams noted we also have Sirpa Duoos online if you have questions.

Chair Johnson asked if there was any additional correspondence. There was none.

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.

Sirpa Duoos, Property Management Specialist for Clatsop County A Political Subdivision of State of Oregon. Adams put the map on the screen from the packet. Duoos stated the County has for some time, over a decade, wanted to deed this property to the state parks for them to manage. In order for the county to do that, we need to have all the platted right-of-ways, even unimproved, vacated in order for the state to accept the piece. Part of the ROW is in the Cannon Beach and part is located in the county area. Once the Cannon Beach portion part is done, I'll approach county public works to vacate their portion. Once both are completed I'll bring to the county commissioner to deed state parks and rec. I have their desire to accept these two tax lots and vacated unimproved ROWs. In response to Newton's questions the lot has been platted since the 1800's, was this action due to summer concerns of who had regulatory control over certain sections of the beach, Duoos replied partially yes. This started this in early 2003, however, it fell to the wayside and concerns of neighbors brought it to head and we proceeded. In response to Newton's questions was it over camping, Duoos replied yes.

Chair Johnson called for proponents of the request.

Anna Moritz PO Box 84 Cannon Beach

Thank you for time, I appreciate it. You have had excellent presentation. I am another voice urging you to vacate to help protect Crescent Beach, noting examples of how it will help. Moritz added these are the only parcels not owned by state parks in the Ecola boundaries. By state law camping prohibited on beach and in front of state parks, but not in front of county land which is why camping has become an issue. There is no sanitation, and it is a sensitive ecological area. I am very supportive of work Clatsop County is doing. They recognized the concern and began process to transfer ownership to Oregon state parks. The hurdle is they cannot take ownership with city ownership of any areas, which is why we are here.

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

Adams added Moritz did a persuasive job and her letter had comments as well. It amazes me the loopholes people will find. I highly recommend vacating.

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

Chair Johnson closed the hearing

Kerr noted I am so happy this is coming before the Planning Commission. I hoped it would happen the last few years and always a distress to see campers on the parcel below the path that leads to the upper area through the woods. Garbage is left there, goes potty there, and I have personally called state parks a number of times and they said they can't do anything about it because they don't have jurisdiction, the City can't and the County doesn't have enough people. I thank Moritz for getting this in front of the Planning Commission. Newton added this is an example of things we have been talking about. I've been here a long time and with ever increasing access to information Cannon Beach has to focus on updating our codes and policies and this is a great example of something that was ok for a long time but no longer works. Cannon Beach needs to stay on top of a rapidly changing information system.

Motion: Kerr moved having considered the evidence in the record, I find the request is not in conflict with the Cannon Beach Comprehensive Plan and does not adversely affect the provision of public facilities, services or access and so move to recommend approval of the Clatsop County application, for vacation of portions of platted and unimproved Pine and Alder street rights-of-way in the Seal Rock Beach Subdivision, affecting all of Alder St. lying northerly of the easterly extension of the south line of Lot 11, Block 10, in the Town Plat of Seal Rock Beach, Book 0, Page 77, Clatsop County Town Plat Records., Cannon Beach application number VAC# 21-01, as discussed, and move the following condition Waiving of fees for the vacation to benefit the citizens of the state; Newton seconded the motion.

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

Johnson stated the project is approved.

INFORMATIONAL ITEMS

(8) Tree Report

Jan Siebert-Wahrmund PO Box 778 Cannon Beach

Friends of the Trees is dedicated to growth stewardship and preservation of trees of our community for present and future. Siebert-Wahrmund read a prepared statement regarding the removal of trees in Cannon Beach. A copy is included in the record.

The Commission discussed the recent tree removal on N. Hemlock.

(9) Ongoing Planning Items

Adams reported I appreciate all comments on the tree removal and the process used. You will have the ability to change with the code audit and its one of the worst things in the code. DRB minors are not used properly. Unfortunately, it takes something like this, and it's been a concern of mine since day one.

Adams gave a report on the living wall.

(10) Good of the Order

Patrick reported I would like to see the city approve the size of the tree that they plan to put in on N Hemlock. Adams replied we will, a discussion ensued.

Newton reported I want to take a moment to recognize the passing of a special person in Cannon Beach. Lisa Fraser passed, a discussion about Mrs. Fraser ensued.

A discussion ensued regarding the process to log into the Executive Session through Zoom.

Johnson stated we hold Executive Session Pursuant ORS 192.660(2)(f), to consider information or records that are exempt by law from public inspection

ADJOURNMENT

The meeting adjourned to an Executive Session at 6:51 pm.

The Executive Session adjourned to a public meeting at 7:30 pm.

The meeting adjourned at 7:30 pm.

City Recorder, Jen Barrett



Cannon Beach Planning Commission

Agenda Item 3

Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **CU 21-02**, JOSEPH F. MANSFIELD APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A PRIVATELY OWNED CAMP GROUND ON THE 1.7 ACRE PROPERTY (TAXLOT# 51029CA00500) LOCATED SOUTH OF RESERVOIR ROAD IN THE OPEN SPACE/RECREATIONAL (OSR) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, CHAPTERS 17.28 OPEN SPACE/RECREATIONAL & 17.80 CONDITIONAL USES.

Agenda Date: October 28, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

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

- A. Notice was posted at area Post Offices on October 6th, 2021;
- B. Notice was mailed on October 6th, 2021 to surrounding landowners within 250' of the exterior boundaries of the property, Cannon Beach Rural Fire Department, Department of Land Conservation and Development;

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 August 9th, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Application packet, including **CU 21-02**, dated August 9, and received August 11, 2021, and tree report by Austin Wienecke, Arbor Care, dated June 4, 2021;
- A-2** Geologic Hazard Report, Horning Geosciences, dated September 23, 2021;

"B" Exhibits – Agency Comments

- B-1** None as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1** None as of this writing;

"D" Exhibits – Public Comment

BACKGROUND

Joseph Mansfield is seeking a conditional use permit to construct a privately owned campground on a 3.2 acre property (Tax Lots 00301, 00302 & 00500, Map 51029CA) south of Reservoir Rd., zoned Residential Low Density (RL) and Open Space/Recreation.

The property is to be accessed directly off Reservoir Rd., with acreage from three taxlots, approximately 1.5 acres falling within the Cannon Beach City Limits on RL zoned lands and approximately 1.7 acres outside the City Limits zoned OSR. The property according to the City's GIS mapping service is comprised of slopes exceeding 40% and will require a geo-hazard report before any construction will be permitted. There is no indication that the property includes wetlands, streams or Special Flood Hazard Areas of note.

ANALYSIS/INFORMATION

Staff was approached by Joseph Mansfield to discuss the project and process for the 'Forest Retreat,' which is provided in the packet. The privately owned campground facilities would provide ten elevated permanent yurt-type pods, accessed from a centralized off-street parking lot, accessed via Reservoir Rd. The applicant would provide City Street standard improvements to reach the parking facilities and to allow for emergency access to the currently unimproved site.

Each pod would include kitchen, bath and sleeping facilities for individual parties under transient accommodations. The pods are proposed to be served by City water and sewer and the applicant proposes annexation of the eastern taxlot into the City, pending approval of the Conditional Use. The project will require a rezone of the RL acreage within the City Limits to OSR, allowing for the privately owned campground to extend across the entire property in association with an annexation request for the property outside the City Limits, to convey public services and extend the Reservoir Road segment to the property extent.

The applicant states that they are "hoping to create a low-impact eco retreat featuring 8-10 lightweight geodesic domes built on elevated platforms. Each unit will have a corresponding land art installation for the guests to experience. The site is 3.14 acres and consists of lots 301, 302 and 500. It is heavily forested with an average slope greater than 40% which makes it challenging for traditional construction but ideal for lightweight domes and pin foundations. The primary structures will be 8-10 30' diameter low-impact geodesic domes and a small utility building. Each dome will have an insulated membrane shell and a plumbed service core with a kitchen and bathroom. The domes will be connected by an elevated boardwalk to a central parking lot with 10 spaces. I hope to create a completely new eco-friendly lodging concept not currently found in Cannon Beach, which will help reconnect people to both nature and art."

Conditional Use Criteria

17.80.110.A: This section establishes the first of six overall conditional use 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.

The applicant has provided the following proposed findings addressing this criterion:

"Cannon Beach has a vibrant art scene and my project will offer a unique lodging experience which blends low impact geodesic domes with land art installations. Non traditional lodging options such as campgrounds and RV parks are in very high demand in Cannon Beach. The adjacent private campground, Wright's for Camping, is booked 95% of it's available days. Cannon Beach RV Resort has similarly high occupancy rates. Sea Ranch Resort has small rustic cabins which are almost fully booked. I believe a demand exists for a peaceful forested retreat mere blocks from Pelican Brewery and the commercial core of Cannon Beach. The site is adjacent to a private campground which is zoned open space recreational. Currently lot 500 is the only available lot zoned open space recreational and I'm hoping to remap lots 301 and 302 from low density residential to open space recreational."

Staff Comments:

As the applicant states, there are very few alternative or non-traditional lodging options in the area. There is little doubt from the City's increasing transient lodging taxes that these businesses are thriving even under the COVID restrictions of the past couple of years. From the aerial one can see that only one private property owner, 323 Reservoir Rd., should be affected by the extension of Reservoir Rd. and any increased traffic that might result from the proposed application. The eight to ten pod campground would be a similar use to the Wright's for Camping property, which also utilizes this point of access. Meets criteria.

17.80.110.B: This section establishes the second of six overall conditional use standards:

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.

The applicant has provided the following proposed findings addressing this criterion:

"The forest dome retreat will ultimately have 8-10 700 SF geodesic domes each with 1 dedicated parking spot which will result in minimal traffic on the access road. The site is in close proximity to central Cannon Beach attractions such as Pelican Brewing, which is a 0.25 mile or 5 minute walk. The nearest public beach access is only 0.5 miles or a 10 minute walk and I plan on providing access to utility wagons to encourage guests to walk instead of driving. There is a pedestrian friendly ADA accessible sidewalk that extends from Reservoir Rd onto E Sunset Blvd underneath Highway 101. There is a public bus stop within 0.3 miles for both the shuttle and intercity travel. There will be a covered bike rack available for guests next to the parking lot. The domes will be constructed on elevated platforms using low impact pin foundations, which allows rain runoff to permeate the soil underneath the structures. This foundation system doesn't require excavation and is the least harmful option for tree roots. The domes will feature heat pump hydronic in-floor heating which uses 1/4 the electricity of comparable electric heating. The same unit also provides high efficiency domestic hot water at an efficiency 4-5 x greater than traditional electric water heaters. The units will each have a high efficiency wood pellet stove for backup heating. Wood pellet stoves have 1/2 the carbon release of wood stoves and minimal smoke production of < 1gm / hr. Each unit will have a single bathroom and a small kitchen which reduces the potential load on the water and sewer systems. I've worked with the public works director, Karen Labonte, and she sees no issues."

Staff Comments:

Reservoir Rd. currently extends east from the Wrights for Camping entrance along a semi-improved gravel road section, which will be improved to a 20'-wide City Road Standard stretch to the parking lot area, which should be the extent of any future development along Reservoir Rd., as the remaining property to the water tower is City-owned property. As mentioned above, there should be little impact to any other private property by traffic related as only one property entry exists between the subject site and the loop off Highway 101. The water, sewer and other utilities should not be impacted by eight to ten connections.

The insulated pods and platforms, with hydronic radiant powered heat pump water heaters and other low impact features should equate to eco-friendly forest resort. Meets criteria.

17.80.110.C: This section establishes the third of six overall conditional use standards:

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.

The applicant has provided the following proposed findings addressing this criterion:

“The proposed percentage of developed space will be less than 10% of the total site area. This includes the 10 dome units, 10 gravel parking spaces, gravel fire truck turn-around, gravel road and a utility building. There are roughly 330 mature trees larger than 6" diameter of which an estimated 25 or 8% will need to be removed according to the preliminary arborist site visit. Reservoir rd. will need to be improved to Cannon Beach 12.34.070 Gravel Road Minimum Design up to the parking turnout. City development director Jeff Adams and fire chief Marc Reckmann agreed to a 20' road width. There is a relatively flat spot on lot 500 large enough for 8-10 parking spots and a modified hammer-head turn-around as recommended by fire chief Marc Reckmann. A 20'L x 8'W x 8'T utility building will be located at the east end of the parking lot. An 18'x8' timber screened gate will extend from the utility room to enclose a 3yd dumpster, recycling bins and guest bike storage. There exists enough space for approximately 100' between the 30' diameter domes and there will be a minimum 25' setback from the adjacent property lines. Final placement of rental units is to be determined with advice from an arborist as to minimize the impact on the forest health.”

Staff Comments:

There is one 160 SF utility building in the parking area proposed, which would be serviced by the same access and contain a dumpster storage facility and guest bike/utility wagon storage area.

Parking requirements for ‘motels and hotels’ require one-and-a-quarter off-street parking spaces per unit. The current parking configuration allows for ten spaces, if we hold the possibility of ten pods to the same standard, they would be required to provide 13 parking spaces. According to CBMC 17.78.020 the Planning Commission must find that this is either a similar enough use to motels to apply the 1.25 requirement or state the required in aggregate. Meets criteria, conditioned upon 1.25 spaces per pod or a statement from the PC that 1 space satisfies this project and CBRFD approval.

17.80.110.D: This section establishes the fourth of six overall conditional use standards:

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.

The applicant has provided the following proposed findings addressing this criterion:

“The steep forested quality of the site makes it ideal for light-weight non-traditional construction. This low impact development will maintain the existing topography and drainage systems to the greatest extent possible while minimizing impervious surfaces and roads. I've consulted with geologist Tom Horning to confirm that the soil conditions are stable and appropriate for my use. I've consulted with master arborist Austin Wienecke, general manager of Arbor Care, to develop a site plan that's safe for the grove of trees and the guests. His endorsement letter is attached. I plan on using a FF Stanchion Post pin foundation system which will create minimal root disruption as it requires no excavation to install the footings.”

Staff Comments:

The geo-hazard report outlines the steep terrain and states that “slope instability, weak soils, possible shallow groundwater saturation, and seismic issues are the main hazards for this property.” The application proposes a cut on the order of 10’ high to accommodate the parking and hammerhead turnaround area. The geo-hazard report gives Geotech considerations for development, but they are minor concerns over depth of pilings and added protections for slopes greater than 67%. There is a steep sloped area identified along the eastern portion of the property that appears to be the most suspect terrain and it might be conditioned that this area be avoided or additional Geotech precautions taken.

The pin foundation systems should have a low-impact footprint, as recommended by the Geotech report and the arborist comments. Meets criteria, conditioned upon steep standards provisions.

17.80.110.E: This section establishes the fifth of six overall conditional use standards:

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.

The applicant has provided the following proposed findings addressing this criterion:

“The site plan is designed to have a consolidated gravel parking lot for guest parking with a network of elevated boardwalks to their respective units. The existing pedestrian friendly ADA accessible sidewalk that extends from Reservoir Rd onto E Sunset Blvd underneath Highway 101 will greatly reduce car trips. There will be a type 2 electric vehicle charging station available at the parking lot. There will be a central refuse collection point which will be concealed. The parking lot will include a modified hammer-head turn around which was approved by fire chief Marc Reckmann.”

Staff Comments:

Guest, service and emergency access is provided along the Reservoir Rd. extension to 20’-wide public right-of-way. The applicant has proposed that there are approximately 300 trees on site and a preliminary estimate by a certified arborist has claimed only 15 to 25 ‘danger’ or hazardous trees will be required to be removed. The Cannon Beach Rural Fire Department and the City Public Works Department have received the application materials and have no issues with extending these services as depicted. Meets criteria.

17.80.110.F: This section establishes the sixth of six overall conditional use standards:

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

The applicant has provided the following proposed findings addressing this criterion:

“Just as Cannon Beach celebrates the creative spirit, I plan on making art a central aspect of my forest retreat. I intend to curate a permanent site specific piece of land art for every rental unit. Land art or earth art is art that is made directly in the landscape, incorporating natural materials such as rock or twigs. This provides an opportunity to host artists from around the world while they design and build their work. The 700 SF domes are small in scale and will be adequately setback from neighboring lots as to protect their privacy. The insulated membranes provide noise deadening and there will be strictly enforced quiet hours between 10PM and 7AM. The dense forest also provides a visual buffer from the surrounding neighbors.”

Staff Comments:

The property is bordered by R3 High Density Residential directly north of the property's Reservoir Rd. access. To the east and south of the property boundaries falls City-owned OSR Open Space/Recreation zoned forested property. The southern portion of the property is adjacent to RL Low Density Residentially zoned properties and the OSR zoned Wrights for Camping to the north.

Setbacks from the neighboring residential properties to the south would be held to the Chapter 17.66 Buffering and Screening Requirements, which states that a twenty-foot buffer, measured horizontally from the property line, shall be required between motels or commercial uses abutting an RL or R3 zoning district. It appears that at least a couple of the proposed pods would not comply under the current configuration. The ordinance states that "the buffer area may only be occupied by screening, utilities and landscaping materials," which would require the pods and walkways to be removed from these buffer areas.

There is little doubt that the uses are compatible to the Wright's for Camping campground facilities to the north, but whether the property is in keeping with the RL or the R3 properties depends upon the criteria for judging such. The RL districts allow for outright uses of single-family homes, public parks and residential facilities. Yet RL also conditionally permit churches, schools, day care and governmental facilities, many of the same uses allowed conditionally in the OSR.

There are seven private residences, zoned RL which would border the southern portion of the proposed project. They would be the most impacted by the development. Whether they border residential or the proposed privately owned campground pods would likely fall to use comparisons as traffic impacts would not impact these properties. Any impact from the quasi-public places, such as noise and privacy concerns might be handled through design, where the walkways and quasi-private areas, such as the deck areas, with hot tubs, could be moved to the norther, rather than the south, directing the walkways, with entry areas, away from the southern single-family residential areas. Meets criteria, with possible design considerations, for DRB review.

17.80.190 Tourist accommodations.

In residential zones, motels or other tourist accommodations shall maintain residential yard requirements or setbacks. Outdoor lighting or signs shall not cast glare onto adjacent residential property or the beach. Traffic ingress and egress shall be onto other than residential streets, except that access points onto major streets shall be minimized. A commercial or recreational use associated with a motel shall be located so as not to adversely affect adjacent property by its hours of operation, noise, traffic generation, signs or lighting. (Ord. 79-4 § 1 (6.190))

17.04.112 Campground.

"Campground" means an area of land developed without hook-up facilities for recreational use in temporary occupancy by tents or recreational vehicles

17.04.400 Motel.

"Motel or other tourist accommodation" means a structure or part of a structure, containing motel rental units, occupied or designed for occupancy by transients for lodging or sleeping and including the terms "hotel" and "inn," but shall not include the term "bed and breakfast establishment" or the transient occupancy of a dwelling unit regulated by this chapter.

Staff Comments:

The 'glamping' pods don't fit neatly into any of the City's current definitions, where campgrounds and motels are defined, as they are more than mere campsites and less than motels or hotels. It should be clarified that these pods will be treated as transient lodging, where nightly rentals are permitted and taxed under the transient lodging tax. Unlike RV sites they will have fixed infrastructure, water, sewer and electric, but welcome year-round nightly guests.

Staff Recommendation

The proposed Forest Resort privately owned 'glamping' campground provides a unique lodging experience, in an area suited for such activities. With conditions that speak to neighboring privacy concerns, the screening and buffering provisions of CBMC 17.66 and DRB review should alleviate these issues. Staff recommends conditional approval, with CUP approval for the extent of the project, pending other required City approvals.

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 Joseph Mansfield application, for a conditional use permit request for a privately owned and operated campground, Cannon Beach Planning Commission application number **CU# 21-02**, 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, November 4th at City Hall:

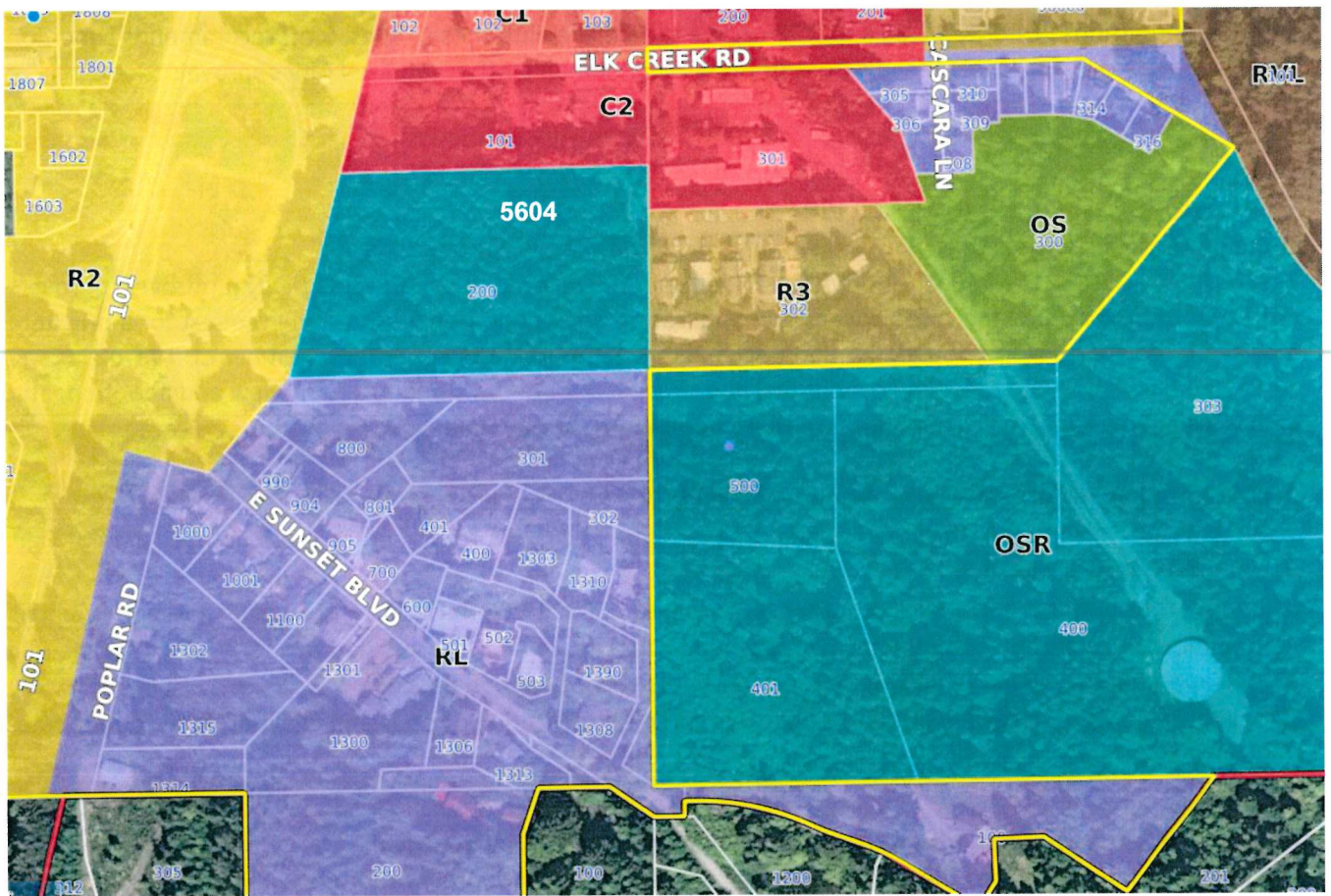
1. Off-Street Parking of 1.25 spaces required per pod;
2. No pods are permitted in the steep sloped area identified by red bordered green cross-hatched area of Figure 6, from the Geotech report;
3. Twenty-foot buffer area setback required according to CBMC 17.66 Buffering and Screening Requirements;
4. Conditional Use permit for privately owned campground approval for associated taxlots 302 and 500 pending rezone approval to OSR and annexation of property into City of Cannon Beach;
5. Design Review Board review of quasi-public and -private orientation of pods and facilities, to accommodate abutting residential areas.

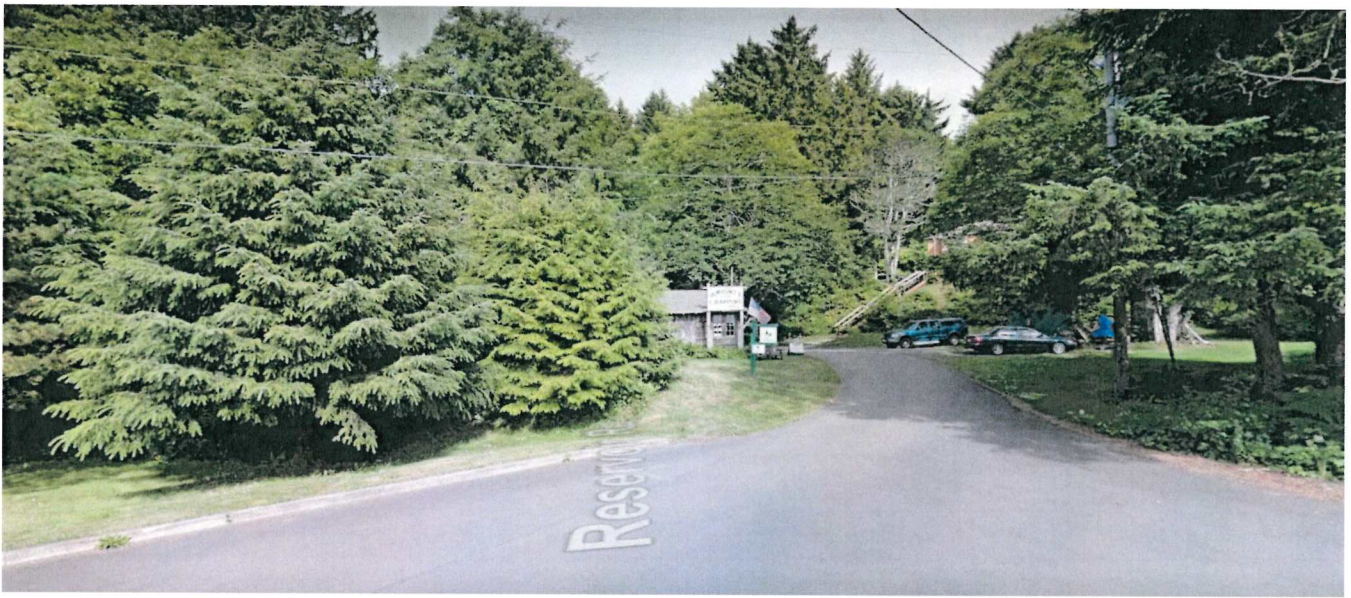
If the Commission does not wish to review the Findings prior to final approval:

MOTION: Having considered the evidence in the record, I move to (approve/approve with conditions/or deny) the Joseph Mansfield application, for a conditional use permit request for a privately owned and operated campground, Cannon Beach Planning Commission application number **CU# 21-02**, as discussed (subject to the following conditions):

1. Off-Street Parking of 1.25 spaces required per pod;
2. No pods are permitted in the steep sloped area identified by red bordered green cross-hatched area of Figure 6, from the Geotech report;
3. Twenty-foot buffer area setback required according to CBMC 17.66 Buffering and Screening Requirements;
4. Conditional Use permit for privately owned campground approval for associated taxlots 302 and 500 pending rezone approval to OSR and annexation of property into City of Cannon Beach;
5. Design Review Board review of quasi-public and -private orientation of pods and facilities, to accommodate abutting residential areas.

Site Map:







CITY OF CANNON BEACH

CU 21-02 City of Cannon Beach
Finance Department **A-1**

AUG 11 2021

Received

CONDITIONAL USE APPLICATION

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

Applicant Name: Joe Mansfield
Email Address: joe.mansfield@gmail.com
Mailing Address: 2111 SE 28th pl
Portland, OR 97214
Telephone: 503-338-0821

Property-Owner Name: Joe Mansfield
(if other than applicant)
Mailing Address: 2111 SE 28th pl Portland OR 97214
Telephone: 503 338 0821
Property Location: vacant land reservoir rd lots 301, 302, 500
5.10.29 CB (street address) 510 29 CB 00301
5.10.29 CB 510 29 CB 00302
Map No.: 5.10.29 CA Tax Lot No.: 510 29 CA 00500

CONDITIONAL USE REQUEST:

1. Description of the proposal.
See Attached
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.
 - 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.

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

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

Application Fee: \$750.00

Applicant Signature: _____

Date: 8/9/21

Property Owner Signature: _____

Date: 8/9/21

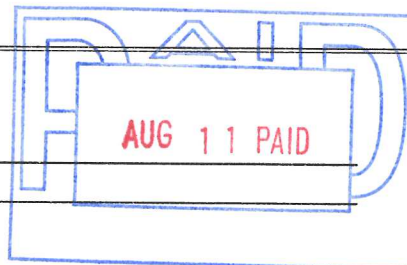
If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

For Staff Use Only:

Date Received: _____ By: _____

Fee Paid: _____ Receipt No.: _____

(Last revised March 2021)



CONDITIONAL USE APPLICATION

1. Description of the proposal.

I, Joe Mansfield, am hoping to create a low-impact eco retreat featuring 8-10 lightweight geodesic domes built on elevated platforms. Each unit will have a corresponding land art installation for the guests to experience. The site is 3.14 acres and consists of lots 301, 302 and 500. It is heavily forested with an average slope greater than 40% which makes it challenging for traditional construction but ideal for lightweight domes and pin foundations. The primary structures will be 8-10 30' diameter low-impact geodesic domes and a small utility building. Each dome will have an insulated membrane shell and a plumbed service core with a kitchen and bathroom. The domes will be connected by an elevated boardwalk to a central parking lot with 10 spaces. I hope to create a completely new eco friendly lodging concept not currently found in Cannon Beach, which will help reconnect people to both nature and art.

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.

Finding: Cannon Beach has a vibrant art scene and my project will offer a unique lodging experience which blends low impact geodesic domes with land art installations. Non traditional lodging options such as campgrounds and RV parks are in very high demand in Cannon Beach. The adjacent private campground, Wright's for Camping, is booked 95% of it's available days. Cannon Beach RV Resort has similarly high occupancy rates. Sea Ranch Resort has small rustic cabins which are almost fully booked. I believe a demand exists for a peaceful forested retreat mere blocks from Pelican Brewery and the commercial core of Cannon Beach. The site is adjacent to a private campground which is zoned open space recreational. Currently lot 500 is the only available lot zoned open space recreational and I'm hoping to remap lots 301 and 302 from low density residential to open space recreational.

- 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.

Finding: The forest dome retreat will ultimately have 8-10 700sqft geodesic domes each with 1 dedicated parking spot which will result in minimal traffic on the access road. The site is in close proximity to central Cannon Beach attractions such as Pelican Brewing, which is a 0.25 mile or 5 minute walk. The nearest public

beach access is only 0.5 miles or a 10 minute walk and I plan on providing access to utility wagons to encourage guests to walk instead of driving. There is a pedestrian friendly ADA accessible sidewalk that extends from Reservoir Rd onto E Sunset Blvd underneath Highway 101. There is a public bus stop within 0.3 miles for both the shuttle and intercity travel. There will be a covered bike rack available for guests next to the parking lot. The domes will be constructed on elevated platforms using low impact pin foundations, which allows rain runoff to permeate the soil underneath the structures. This foundation system doesn't require excavation and is the least harmful option for tree roots. The domes will feature heat pump hydronic in-floor heating which uses $\frac{1}{4}$ the electricity of comparable electric heating. The same unit also provides high efficiency domestic hot water at an efficiency 4-5x greater than traditional electric water heaters. The units will each have a high efficiency wood pellet stove for backup heating. Wood pellet stoves have $\frac{1}{2}$ the carbon release of wood stoves and minimal smoke production of $< 1\text{gm} / \text{hr}$. Each unit will have a single bathroom and a small kitchen which reduces the potential load on the water and sewer systems. I've worked with the public works director, Karen Labonte, and she sees no issues with water or sewer capacity. I've worked with fire chief Marc Reckmann to design a fire engine turn-around and will be installing a fire hydrant near the parking lot. The units will not have open fire pits. The outer membrane of the domes is a vinyl coated Polyester which is flame resistant.

- 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.

Finding: The proposed percentage of developed space will be less than 10% of the total site area. This includes the 10 dome units, 10 gravel parking spaces, gravel fire truck turn-around, gravel road and a utility building. There are roughly 330 mature trees larger than 6" diameter of which an estimated 25 or 8% will need to be removed according to the preliminary arborist site visit. Reservoir rd. will need to be improved to Cannon Beach 12.34.070 Gravel Road Minimum Design up to the parking turnout. City development director Jeff Adams and fire chief Marc Reckmann agreed to a 20' road width. There is a relatively flat spot on lot 500 large enough for 8-10 parking spots and a modified hammer-head turn-around as recommended by fire chief Marc Reckmann. A 20'L x 8'W x 8'T utility building will be located at the east end of the parking lot. An 18'x8' timber screened gate will extend from the utility room to enclose a 3yd dumpster, recycling bins and guest bike storage. There exists enough space for approximately 100' between the 30' diameter domes and there will be a minimum 25' setback from the adjacent property lines. Final placement of rental units is to be determined with advice from an arborist as to minimize the impact on the forest health.

- 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.

Finding: The steep forested quality of the site makes it ideal for light-weight non-traditional construction. This low impact development will maintain the existing topography and drainage systems to the greatest extent possible while minimizing impervious surfaces and roads. I've consulted with geologist Tom Horning to confirm that the soil conditions are stable and appropriate for my use. I've consulted with master arborist Austin Wienecke, general manager of Arbor Care, to develop a site plan that's safe for the grove of trees and the guests. His endorsement letter is attached. I plan on using a FF Stanchion Post pin foundation system which will create minimal root disruption as it requires no excavation to install the footings.

- 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.

Finding: The site plan is designed to have a consolidated gravel parking lot for guest parking with a network of elevated boardwalks to their respective units. The existing pedestrian friendly ADA accessible sidewalk that extends from Reservoir Rd onto E Sunset Blvd underneath Highway 101 will greatly reduce car trips. There will be a type 2 electric vehicle charging station available at the parking lot. There will be a central refuse collection point which will be concealed. The parking lot will include a modified hammer-head turn around which was approved by fire chief Marc Reckmann.

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

Finding: Just as Cannon Beach celebrates the creative spirit, I plan on making art a central aspect of my forest retreat. I intend to curate a permanent site specific piece of land art for every rental unit. Land art or earth art is art that is made directly in the landscape, incorporating natural materials such as rocks or twigs. This provides an opportunity to host artists from around the world while they design and build their work. The 700 sqft domes are small in scale and will be adequately setback from neighboring lots as to protect their privacy. The insulated membranes provide noise deadening and there will be strictly enforced quiet hours between 10pm-7am. The dense forest also provides a visual buffer from the surrounding neighbors.

Conclusion

The proposed project conforms to the criteria of the City's Comprehensive plan and development code. It is respectfully requested that the Planning Commission approve the request.

Attachments:

Site Plan

Parking Detail

Tree Map

Dome Detail

Dome Visual

Pin Foundation Detail

Utility Building Detail

Land Art Examples

Arborcare Letter of Support

Horning Report

PARKING DETAIL

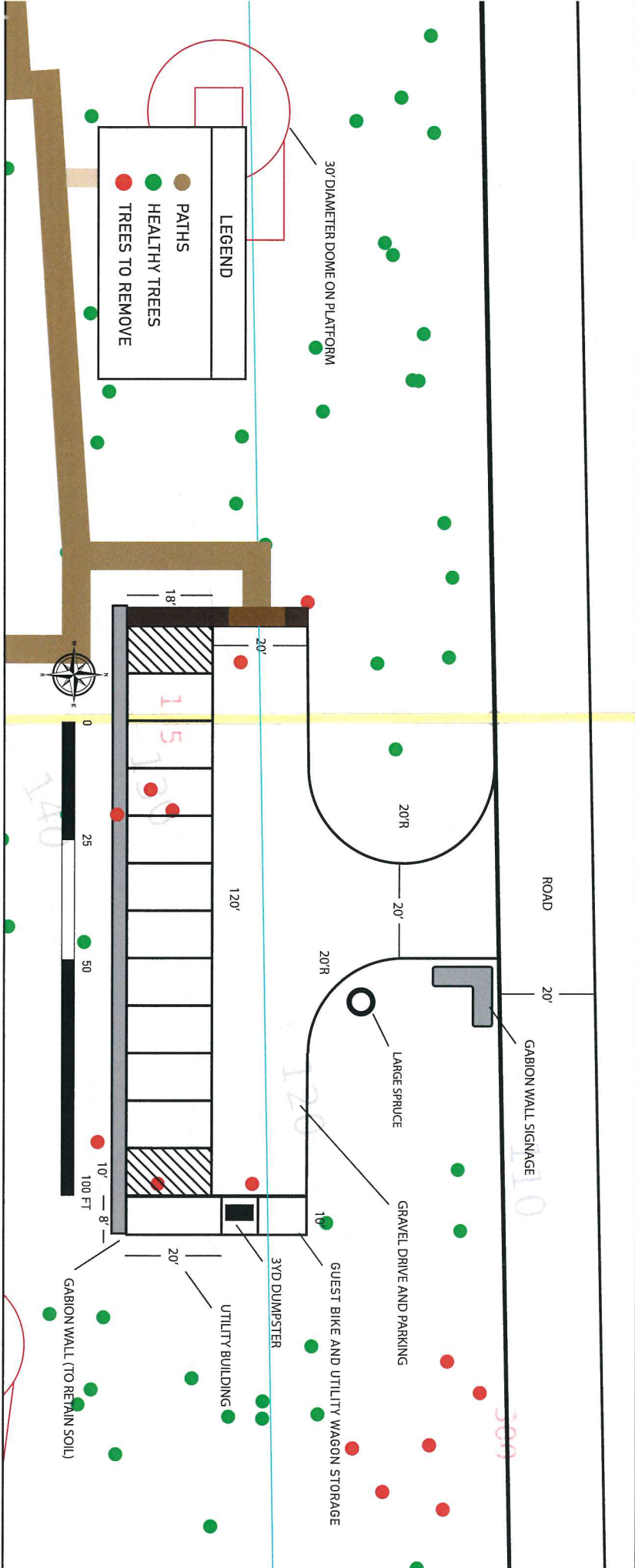
THE CITY ACCESS ROAD IS TO BE WIDENED TO 20' GRAVEL UP TO PARKING TURN-OFF.

THERE WILL BE 10 GRAVEL PARKING SPACES EACH 10' WIDE AND 18' DEEP.

FIRE CHIEF MARC RECKMANN AGREED TO THE MODIFIED 120 DEG HAMMERHEAD TURN-AROUND LAYOUT.

THERE IS A SMALL UTILITY BUILDING AND SCREENED FENCE FOR 3YD DUMPSTER AND RECYCLING BINS ON EAST END OF PARKING LOT.

A PRELIMINARY GEOLOGIST ASSESSMENT DETERMINED THAT 18' CAN BE SAFELY EXCAVATED TO WIDEN PARKING LOT.



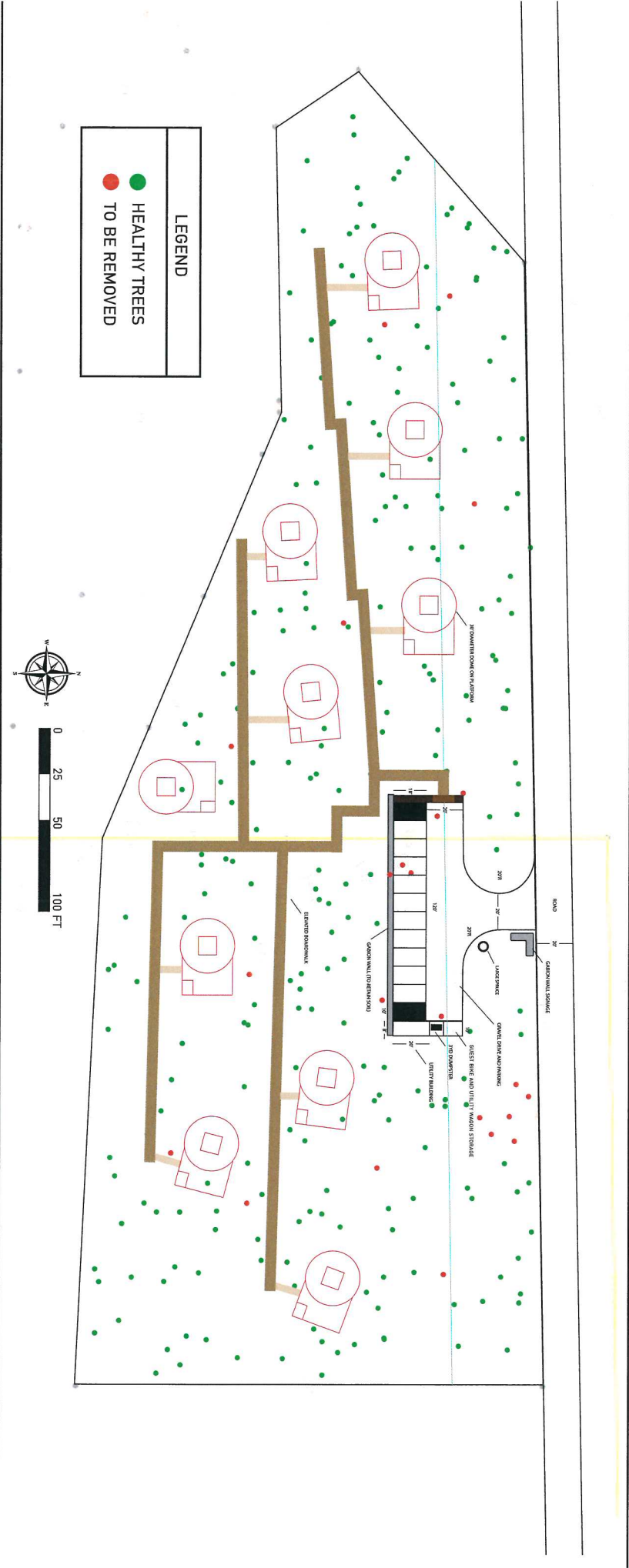
TREE MAP

THERE ARE ROUGHLY 300 TREES ON LOTS 301, 302, AND 500.

THERE IS A MIX OF SECOND GROWTH SPRUCE AND HEMLOCK.

A PRELIMINARY ARBORIST ASSESSMENT DETERMINED THAT ROUGHLY 15-25 DANGER TREES WILL NEED TO BE REMOVED PRIOR TO DEVELOPMENT.

ALL LOCATIONS ARE APPROXIMATE.



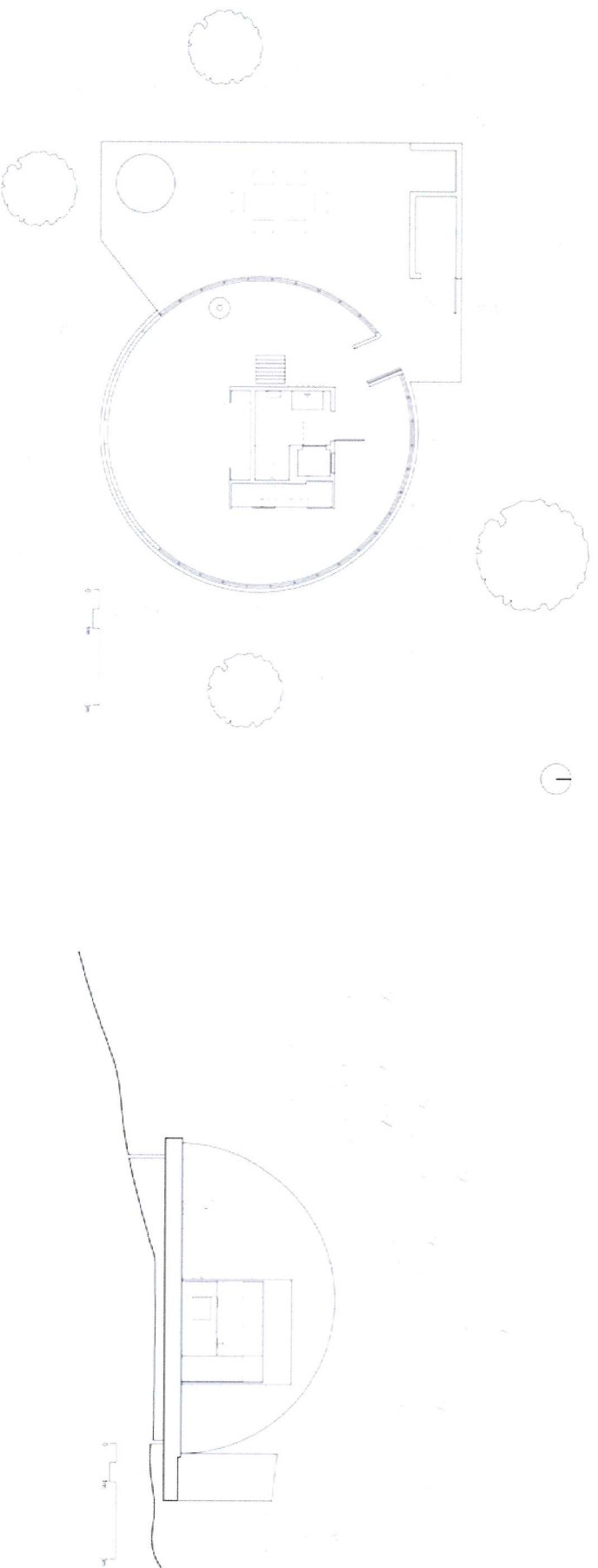
DOME DETAIL

I PLAN ON USING LIGHTWEIGHT 30' DIAMETER 700 SQFT INSULATED MEMBRANE GEODESIC DOMES.

DOMES ARE TO BE BUILT ON ELEVATED INSULATED PLATFORM SUPPORTED BY PIN FOUNDATIONS.

EACH DOME WILL HAVE A PLUMBED SERVICE CORE WITH BATHROOM, KITCHEN AND SLEEPING LOFT.

DOMES WILL BE HEATED BY HIGH EFFICIENCY HYDRONIC RADIANT POWERED BY SANDEN CO2 HEAT PUMP WATER HEATERS WHICH ALSO PROVIDE DOMESTIC HOT WATER. THEY MAY HAVE A SECONDARY PELLET STOVE.



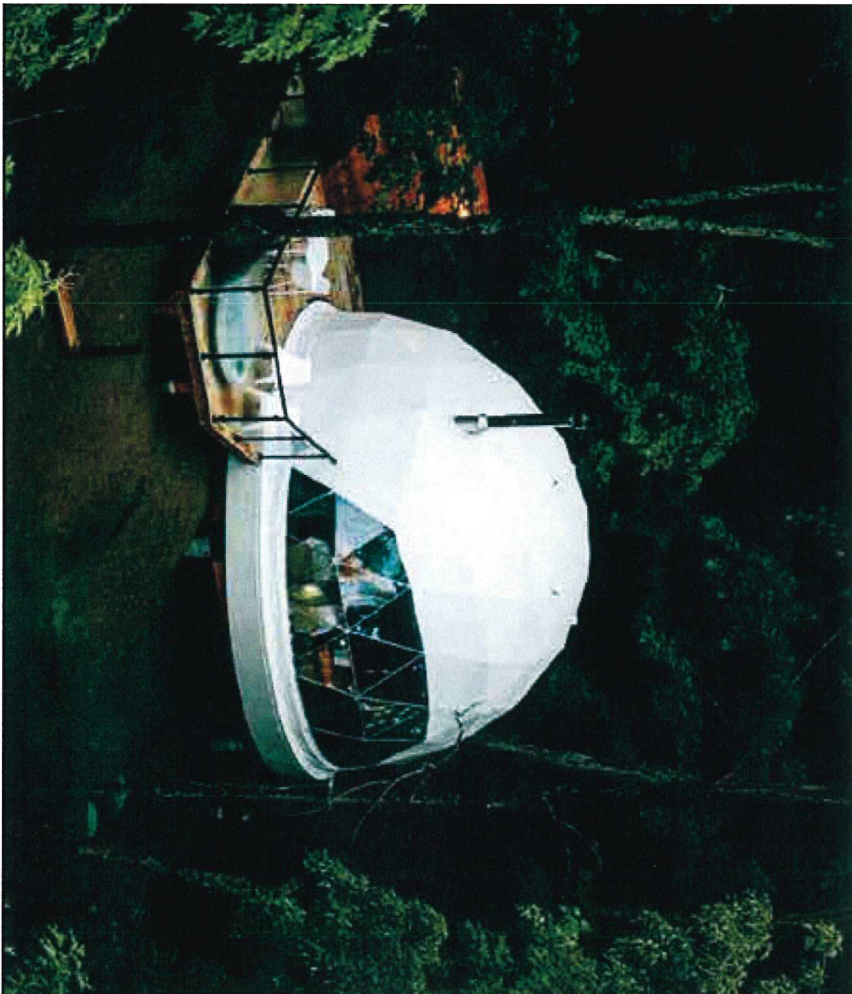
DOME VISUAL

EACH 30' DIAMETER DOME WILL BE 15' HIGH AT THE CENTER AND WILL HAVE A 20'W x 9'T BAY WINDOW.

EACH DOME WILL HAVE A 2-PERSON HOT TUB INSTALLED FLUSH WITH DECK.

DECKS WILL HAVE CODE COMPLIANT RAILING.

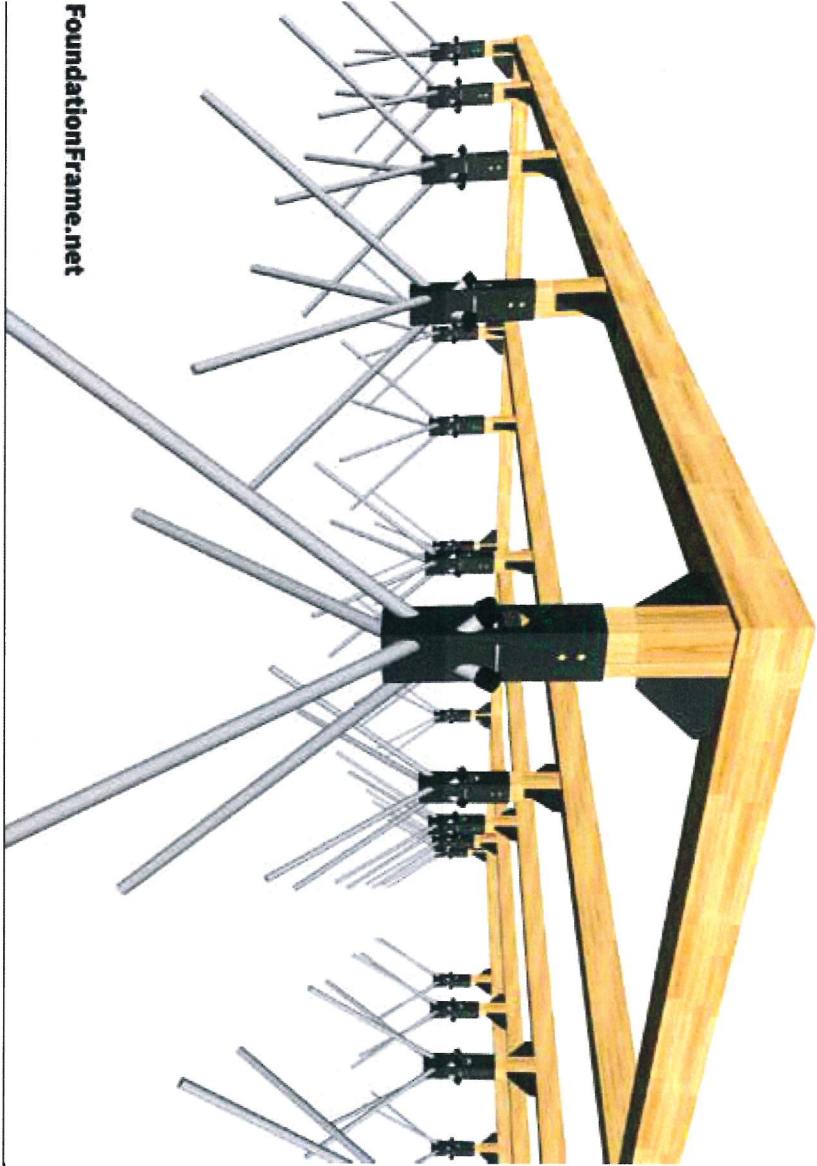
SLEEPING LOFTS WILL BE ACCESSED VIA SHIP LADDER.



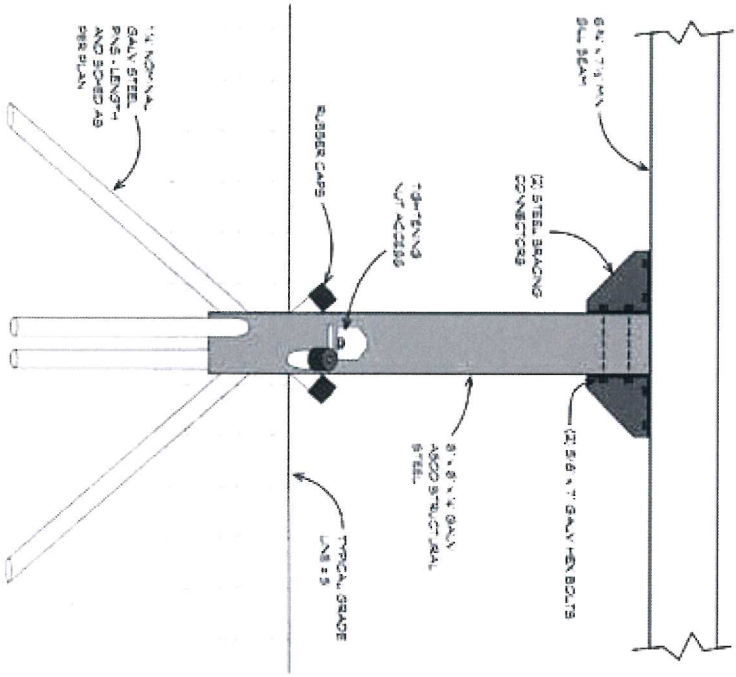
PIN FOUNDATION DETAIL

FOUNDATION FRAME LEAVES PROJECT SOILS, WATER FLOWS AND VEGETATION INTACT. THIS ALLOWS FOR AN UNDISTURBED PROJECT SITE. THE EFFICIENT USE OF LABOR WITH INTUITIVE INSTALLATION TECHNIQUES, AND NO HEAVY EQUIPMENT.

PIN FOUNDATIONS ARE RECOMMENDED BY THE ARBOR CARE AS THEY ARE LESS DAMAGING TO TREE ROOTS.



FoundationFrame.net



FF STANCHION COLUMN - MODEL ST-125/C

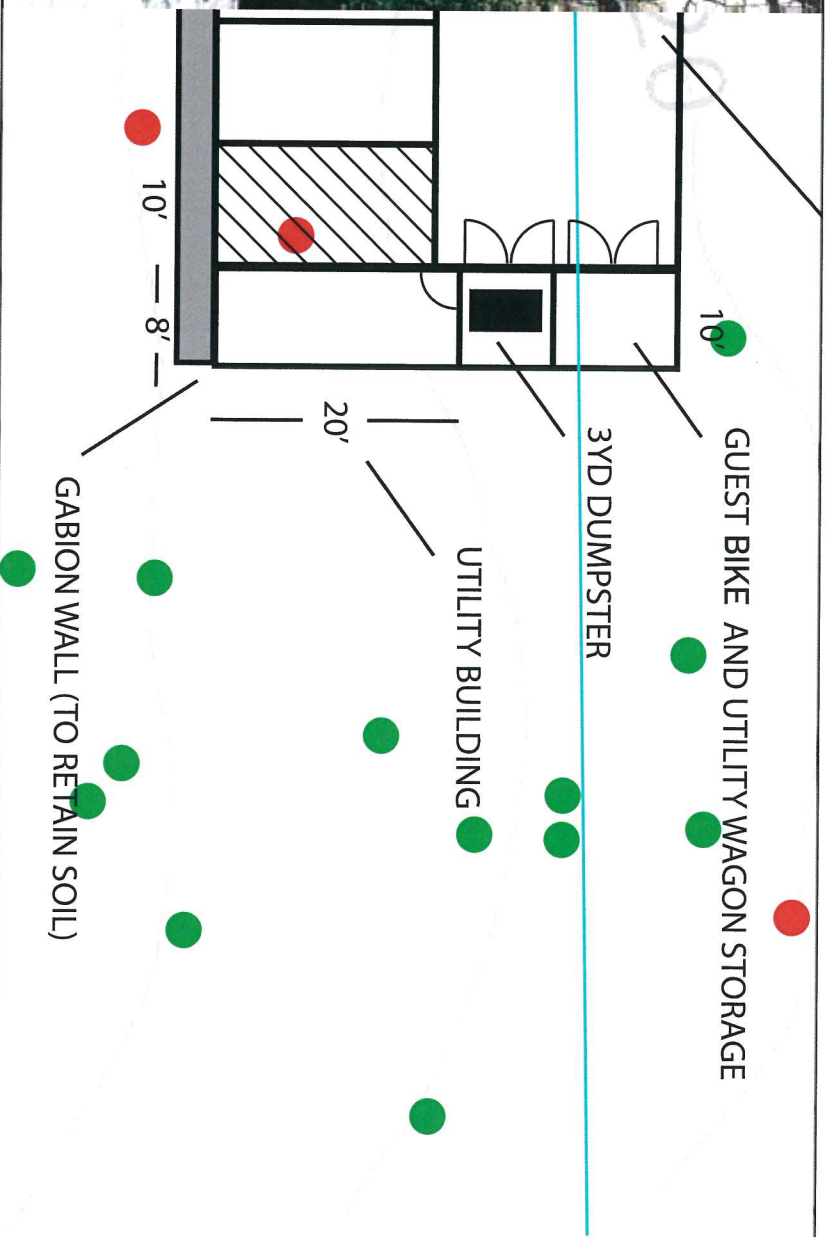
UTILITY BUILDING DETAIL

THE UTILITY BUILDING WILL MEASURE 20' L x 8' W x 8' T.

IT WILL CONTAIN LAUNDRY SERVICES AND STORAGE FOR THE SITE.

THE STRUCTURE WILL BE CLAD WITH SALVAGED MATERIAL TO RESEMBLE STACKED LOGS (SIMILAR TO BELOW LEFT).

AN 8' HIGH FENCE WITH GATES WILL EXTEND 18' x 8' TO ENCLOSE A 3 YD DUMPSTER, RECYCLING BINS AND GUEST BIKE STORAGE



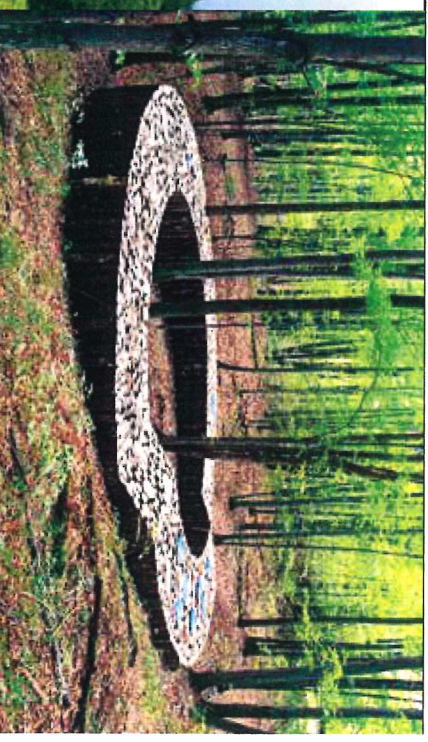
LAND ART EXAMPLES

LAND ART OR EARTH ART IS ART THAT IS MADE DIRECTLY IN THE LANDSCAPE INCORPORATING NATURAL MATERIALS.

I INTEND TO CURATE A PERMANENT SITE SPECIFIC PIECE OF LAND ART FOR EACH DOME.

MATERIALS WILL BE SALVAGED FROM THE SITE.

SITE SPECIFIC ART WILL ENCOURAGE GUESTS TO INTERACT AROUND THE PIECES.



TIM NORRIS / UK

LEE JAE HYU / SOUTH KOREA

MICHAEL MCGILLIS / MICHIGAN



Re: Geodesic dome village, Cannon Beach

Site: east end of Reservoir Rd. lots 301, 302 & 500

Date: 6-4-2021

The proposed development of the above lots is very exciting. I've recently walked the area with Joe Mansfield and have looked at plans. The use of space is not only inventive but ecologically light footed. The FF Stanchion Posts used for pier footings have a very low impact. The Dome platforms are equivalent to the yurt platforms used by State Parks and appropriate for steep terrain and low root impact. Even the use of gravel for the entry road and parking area are preferable over other non-permeable alternatives in relation to tree health. I can't think of an ecologically lighter structural use for this site.

While hazard trees will need to be removed for safety concerns, the density of the canopy and health of the forest is capable of having a few trees removed and not suffer adverse effects.

This letter is not a pre-construction arborist report because the site has yet to have been surveyed and precise locations of structures have not been marked. This letter is instead an endorsement of the concept behind this project: the construction of light-footed Geodesic domes in a forested setting that seeks to retain and preserve the forested canopy for the enjoyment guests and Cannon Beach as a whole.

Austin Wienecke

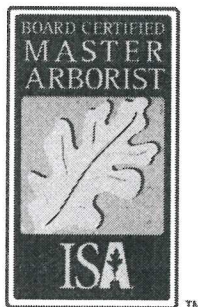
ISA Board Certified Master Arborist PN-5890B

Certified Tree Climber Trainer USFS

ISA Tree Risk Assessment trained

General Manager: Arbor Care Tree Specialists Inc.

503-791-0853 austin@arborcarenw.com



A handwritten signature in cursive script that reads "Austin Wienecke".



Horning Geosciences

808 26th Avenue, Seaside, OR 97138

Ph./FAX: (503)738-3738

Email: horning@pacifier.com

September 23, 2021

Joe Mansfield
2111 SE 28th Place
Portland, OR 97214

RE: Geologic Hazard Report; Map 5 10 29CB, Tax Lots 301 and 302; Map 5 10 29CA, Tax Lot 500; east of Sunset Blvd and Highway 101, Cannon Beach, Clatsop County, Oregon

Dear Joe:

I visited the above referenced property with you and Mike Morgan, Planner, on June 23, 2021, to discuss your goals for developing the site for up to 10 low-impact 30-ft diameter geodesic domes on elevated pin-pile foundations that share an elevated walkway connected to a gravel parking area in the central part of the development. We walked the length of Reservoir Road, discussed the plans, scoped out vegetation and landforms, spending 40 minutes on-site.

Scope of Work

This investigation has been carried out at a reconnaissance level in order to identify geologic hazards that might be active on the property and how to mitigate for them. In addition, recommendations are made for soils and seismic conditions that may affect the property. Based on previous work, it has not been necessary to excavate further test pits or to carry out subsurface investigations. The available information about the neighborhood makes this unnecessary. This limitation on the detail of investigation is not expected to introduce significant uncertainty in the findings of the report.

Methods

Elevations are referenced to the North American Vertical Datum of 1988. Slopes have been measured in the field with a hand-held inclinometer or have been calculated from a site-specific 2-ft contour topographic map. Distances have been measured by pace and compass and by dead reckoning with the topographic map as a guide from staked property corners. Soils are classified according to the Unified Soils Classification System (USC) and are referenced to those listed in maps by the Soil Conservation Service (1985) and the Natural Resources Conservation Service (NRCS) website. Bedrock geology is referenced to maps published by Niem and Niem (1985) and Schlicker and others (1972).

Maps and Figures

A location map and assessor's plat are provided in Figures 1 and 2. An interpreted LIDAR shaded relief and soils map are shown in Figures 3 and 4. Regional geology is illustrated in Figure 5. An interpreted site-specific topographic map and a proposed development plan are shown in Figures 6 and 7. A tsunami inundation map is provided in Figures 8.

QUICK GEOLOGY

The project area encompasses 3.06 acres east of Highway 101 on a north-facing hillslope due east of Sunset Boulevard in central Cannon Beach. The property is elongate east west, and it is approximately 750 ft long by up to 255 ft wide. It is served by a graveled lane known as Reservoir Road.

Property elevations range from about 80 to 150 ft NAVD. Slopes range from about 24 to 50 percent over about 80 percent of the property. At the west end is an area that is sloped from 52 to 65 percent, with a slump escarpment at the extreme west end that is as steep as 91 percent. A smaller area with slopes as steep as 62 percent is located on the flanks of a creek gully near the northeast corner of the property.

Hummocky landslide landforms are not present, aside from the above-mentioned slump at the west end of the lot. Some old overgrown roads are present nearby, and it appears that there might have once been a small rock quarry just north of the northwest corner of the project area, probably mined prior to 1945. Road work and extraction of rock may have triggered the steep slump at the west end of the property. It may have been used for highway construction in the 1930s.

The property is forested with a 60-yr-old stand of western hemlock and Sika spruce and understory ferns, salmon-berry, salal, and other shrubs and forbs of a typical coastal forest. The conifers do not tip, which otherwise might indicate landslide activity. The vegetation indicates stable slopes.

According to Niem and Niem (195), the property is largely underlain by mudstone of the Cannon Beach member of the Miocene Astoria Formation. Along the southwest side of the property is a large dike of invasive Grande Ronde lava of the Miocene Columbia River Basalt. It is unlikely that the basalt underlies the subject property, but it does provide an erosionally resistant ridge with basalt at the crest and mudstone on the flanks.

The mudstone decomposes into clay silt ML-CL soils of the Templeton-Ecola silt loam. It typically forms a profile of about 4 to 6 ft in thickness, topped with organic detritus and Ao topsoil that grades down through silt-clay loam, terminating in weathered mudstone bedrock, according to the Natural Resources Conservation Service (NRCS). It tends not to have colluvial landslide textures, but it can host weathered pieces of basalt that has migrated downslope from the ridge top. The primary mass wasting process for this slope is soil creep, probably with occasional wind-throw of old tall trees during severe windstorms. The absence of natural depressions and mounds suggests that the forest is protected from winds by the crest of the ridge on the southwest side of the project area.

Near the northern side of the project area are gentler slopes related to Pleistocene coastal terrace. At least three terraces in varying degrees of dissection and erosion have been identified in the greater Cannon Beach area, particularly near Sunset Boulevard. They extend to about 85 ft NAVD, or to the elevation of the north property line. It is possible minor terrace deposits might be encountered during site excavation for the hammerhead turnaround and parking area.

The terrace deposits represent the last three high-stands of sea level from 80,000, 105,000, and 120,000 years ago, when warm periods of the climate briefly prevailed. These allowed sea level to rise and lap against the foothills of the Coast Range, cutting cliffs and depositing alluvium in low areas. During lengthier periods of Ice Age conditions, sea level falls and the ocean shoreline withdraws to the west as much as 20 miles, exposing the continental shelf as a coastal plain, during which time the rivers cut canyons. By the time the next high-stand occurs, the land is elevated by tens of feet by mountain building forces, producing a landscape of terraces incised by rivers and backfilled. This process is presently underway and the Ecola Creek drainage is presently filling with sediment, as shown in Figures 3 and 5.

Landform interpretation of the topographic map in Figure 6 finds very little evidence of past landsliding or slumping, aside from the prominent slump with a 91 percent sloping escarpment that is present at the northwest corner of the property. A small knob is present about midway along the south property line but is regarded as a resistant body of basalt that protrudes from the main dike to the south.

GEOLOGIC HAZARDS

Slope instability, weak soils, possible shallow groundwater saturation, and seismic issues are the main hazards for this property. Plans call for widening Reservoir Road and digging out the base of the slope to accommodate parking and a hammerhead turnaround. The cut will be on the order of 10 ft high. It is possible that soils will be exposed through the full 10 ft exposure, but it is likely that bedrock will be encountered in the south, deeper, part of the cut.

Slope Instability

The landforms in Figure 6 indicate that the slope has remained stable, except where past quarrying has removed materials and created a 20-ft-tall cut bank that failed and produced a 91 percent sloping escarpment. Given the ML-CL clay-silt soils, it is expected that slopes will remain stable where inclinations are less than or equal to 50 percent (2H:1V). Slopes greater than 67 percent should be avoided. Those of 50 to 67 percent are conditionally suitable for pin piles, but with special consideration for added strength and depth of embedment.

The pin piles should be embedded at least 3 ft into the soil, deeper if possible. Creeping soils will tend to occur in the uppermost 2 to 3 ft of the profile. For slopes greater than 50 percent but less than 67 percent, care should be taken to embed the piling foundations as deep as possible, preferably to a depth of at least 4 ft, or to the point of refusal of advancement into the soils so as to avoid being dragged along by chronic gradual creep.

Soil Geotechnical Considerations

Undisturbed native mineral soils are expected to be ML-CL clay silt soils that have a Firm to Stiff Consistency, based on origin by chemical weathering of mudstone. The presumptive soil bearing capacity and other properties are given below.

Properties for undisturbed native CL-ML mineral soils*

Allowable vertical foundation pressure	1500 psf
Lateral bearing pressure	200 psf per ft below natural grade
Lateral sliding resistance; coefficient of friction	0.30
Cohesion	130 psf
Friction angle	27°
Maximum unit weight	120 lb/cu ft
Lateral soil bearing pressure on <u>Unrestrained</u> retaining walls with level backfill, equivalent fluid weight (active pressure excluding surcharge effects)	40 lb/cu ft
Lateral soil bearing pressure on <u>Restrained</u> retaining walls with level backfill, equivalent fluid weight (active pressure excluding surcharge effects)	60 lb/cu ft

*- extracted, in part, from Table 1806.2- Presumptive Load Bearing Values- of the 2010 Oregon Structural Specialty Code

Cuts & Fill

Excavation should be carried out in reasonably dry weather, ideally from March through October, or when heavy rains are not expected, as wet conditions will weaken cut banks and cause excavated areas to become muddy and difficult. All organic soils, woody debris, and other deleterious materials must be removed from excavated areas. Temporary vertical cuts of 10 ft are expected to remain stable under dry weather conditions.

Native ML-CL clay-silt soils cannot be used as structural fill because of a high clay content, which prevents proper compaction. Engineered fill for the parking area should consist of well-graded pit-run basaltic quarry aggregate with fragments less than 3 inches in diameter. It should be laid in lifts of no more than 10 inches and should be compacted to 90 percent of maximum dry density with a vibratory plate compactor before the next lift is added. Compacted fill should extend at least 12 inches laterally beyond the edge of concrete footings, if used. For the parking area and turnaround, structural aggregate should consist of at least 16 inches compacted pit-run quarry rock

that is capped by 6 inches of ¾-inch minus crushed rock. Properly compacted fill will resist deflection of more than ¼-inch by proof-rolling with a loaded dump truck. Proof rolling should be witnessed by a representative of this firm.

Retaining walls should be engineered if taller than 4 ft. Soil properties for the design of retaining walls are provided on the previous page. Unretained cuts and compacted fill must be sloped no steeper than 50 percent (2 Horizontal to 1 Vertical). Uncompacted fill used for landscaping must be sloped no steeper than 33 percent, unless it is retained. Drains should be installed behind concrete retaining walls, if used, and should consist of well-sorted drain rock at least 1 inch in diameter. Drain rock is not required for gabion rock-filled baskets, as they drain adequately.

Over-compaction of granular backfill *behind* concrete retaining walls should be avoided. Heavy compactors and large equipment should not be operated within 5 ft of the walls, so as to avoid accidentally surcharging them. Compaction within 5 ft of walls should be done with a hand-compactor. The walls should be fully drained to avoid the build-up of hydrostatic pressures.

Drainage Considerations

Plans call for limited slope impact. It is assumed that the geodesic domes will not have eaves troughs and will be self-bailing. However, if eaves troughs are used, the effluents should be piped laterally from the buildings so as not to saturate slopes directly downslope from the structure. The outfall should be armored to prevent gulying and erosion.

Seismicity & Tsunami

The project property is above tsunami inundation, as shown in Figure 8. The next Cascadia Subduction Zone earthquake has a 15 to 45 percent chance of occurring in the next 50 years. The last earthquake struck 321 years ago in the winter of 1700. Of the past 19 earthquakes to have struck in the last 10,000 years, 5 occurred within 320 years, and all but three of the remaining quakes struck between 300 and 700 years. This suggests strongly that the next earthquake will strike sometime within the next 200 years. However, the earthquakes appear to occur in clusters, characterized by intra-cluster recurrence intervals of 300 to 560 years. We are presently in a cluster in which the mean recurrence is 330 years. The last earthquake was 321 years ago. Possibly, the next quake may strike only a few years from now. Odds that we are still in the present cluster are calculated as high as 80 percent, according to Goldfinger and others (2016).

The odds of earthquake recurrence may be even higher, based on 1) the fact that the Cascadia Subduction Zone south of Coos Bay and Cape Blanco is prone to quakes every 240 years, on average; 2) that the quake of 1700 was the most recent one; and 3) that we are overdue by nearly 70 years. Some seismologists speculate that the long-overdue status of the coming earthquake may cause enough energy to be released to trigger a rupture that propagates the entire length of the subduction zone. If this is the case, the odds of the next full rupture may approach that of southern Cascadia, or perhaps to as much as 65 to 85 percent in the next 50 years.

Shaking amplification will be minor, because this property rests on weathered bedrock. Amplification occurs in weak, low-velocity soils and landslide debris, which are not very thick for the subject parcels. In view of these factors, the recommended seismic site classification for this site is “C”. The following seismic design specifications are recommended:

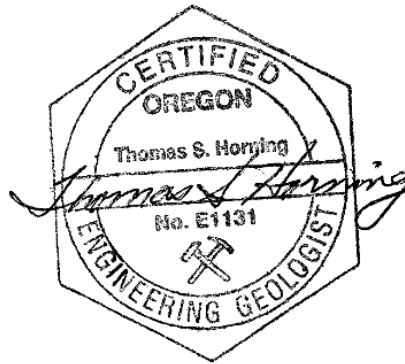
Design Seismic Horizontal Acceleration

Site Classification:	C
Maximum Considered Spectral Acceleration (Short Period):	1.25
Residential Site Value: $F_a = 1.0$ $2/3 \times F_a \times S_s =$	0.84g
Peak Horizontal Acceleration: $0.84/2.5 =$	0.33g
Design Horizontal Acceleration:	0.16g

Because of the length of the convergent margin, the next quake will cause prolonged shaking that will last for up to 5 minutes. This shaking poses structural risk to houses and utilities. It is expected that most water, communications, electricity, and natural gas will be severed for weeks to months by the shaking, isolating Cannon Beach. Road access into and out of Cannon Beach will be sundered by landslides and damaged bridges. It must be made clear that there may be damage to foundations due to minor slope adjustments. This cannot be reliably predicted.

Please call if you have questions.

Thomas S. Horning, CEG E1131
Horning Geosciences



Expires: 7/1/22

References Cited or Consulted

Goldfinger, C., Nelson, H.C., Morey, A.E., Johnson, J.E., Patton, J.R., Karabanov, E., Gutierrez-Pasto, J., Ericksson, A.T., Gracia, E., Dunhill, G., Enkin, R.J., Dallimore, A., and Vallier, T., 2012, Turbidite Event History- Methods and Implications for Holocene Paleoseismicity of the Cascadia Subduction Zone; in Kayen, R., editor, Earthquake Hazards of the Pacific Northwest Coastal and Marine Regions, USGS Professional Paper 1661-F, 184 p.

Goldfinger, C., Wong, I., Kulkarni, R., and Beeson, J.W., 2016, Reply to "Comment on "Statistical Analyses of Great Earthquake Recurrence along the Cascadia Subduction Zone" by Ram Kulkarni, Ivan Wong, Judith Zachariasen, Chris Goldfinger, and Martin Lawrence" by Allan Goddard Lindh; Bulletin of the Seismological Society of America, Vol. 106, p. 10.

Kulkarni, R., Wong, I., Zachariasen, J., Goldfinger, C., and Lawrence, M., 2013, Statistical Analyses of Great Earthquake Recurrence along the Cascadia Subduction Zone, Bull. Seismological Society of America, vol. 103, No. 6, pp. 1-17.

Niem, A. R., and Niem, W. A., 1985, Oil and Gas Investigation of the Astoria Basin, Clatsop and Northernmost Tillamook Counties, Northwest Oregon: OGI-14, State of Oregon, Department of Geology and Mineral Industries.

Schlicker, H. G., Deacon, R. J., Beaulieu, J. D., and Olcott, G. W., 1972, Environmental Geology of the Coastal Region of Tillamook and Clatsop Counties, Oregon: Bulletin 74, State of Oregon, Department of Geology and Mineral Industries; 164 p. with plates.

SCS/USDA, 1988, Soil Survey of Clatsop County, Oregon, 1988, 272 p. with 56 plates.

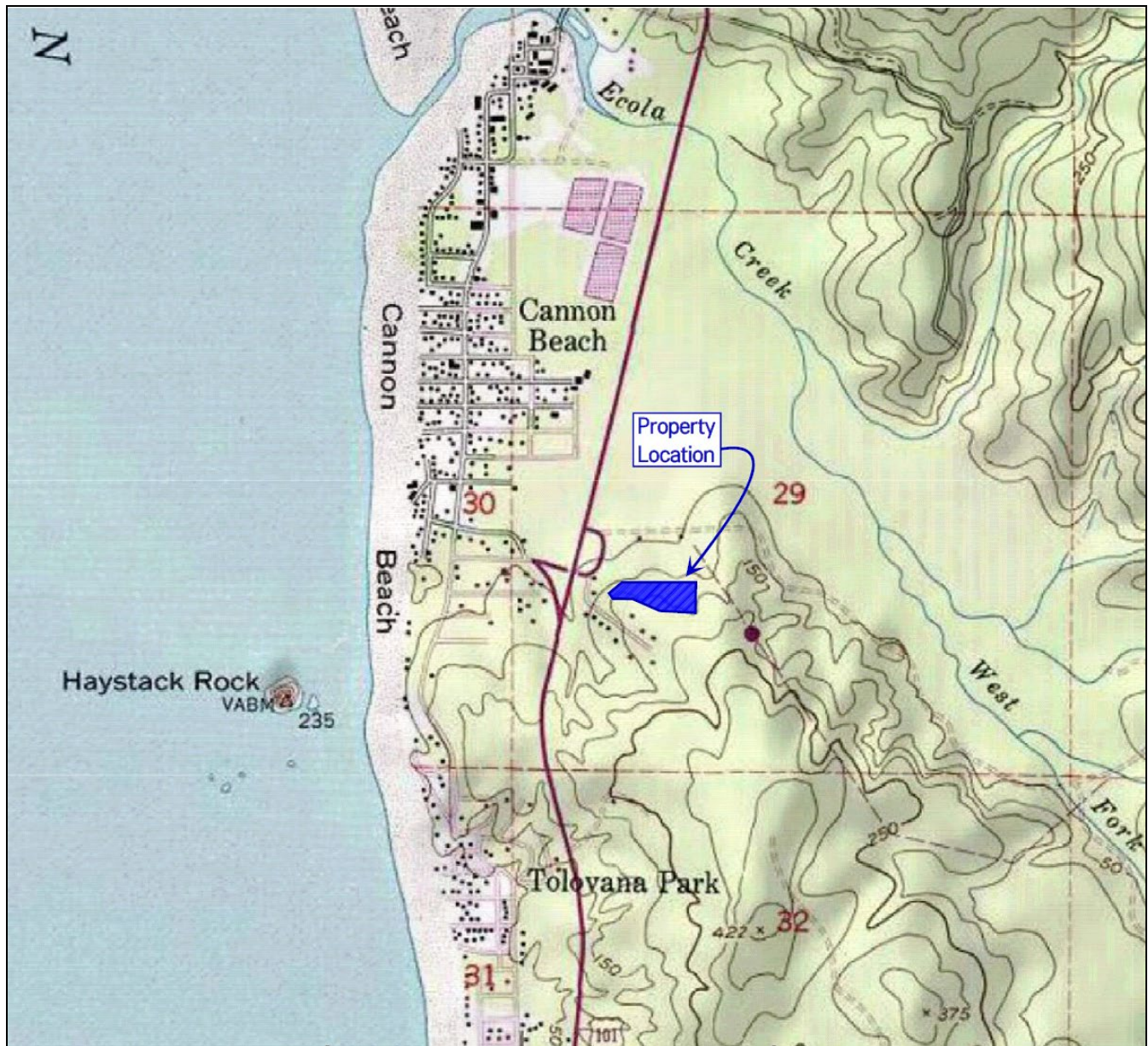
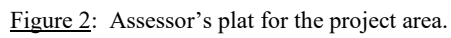


Figure 1: Property location map.



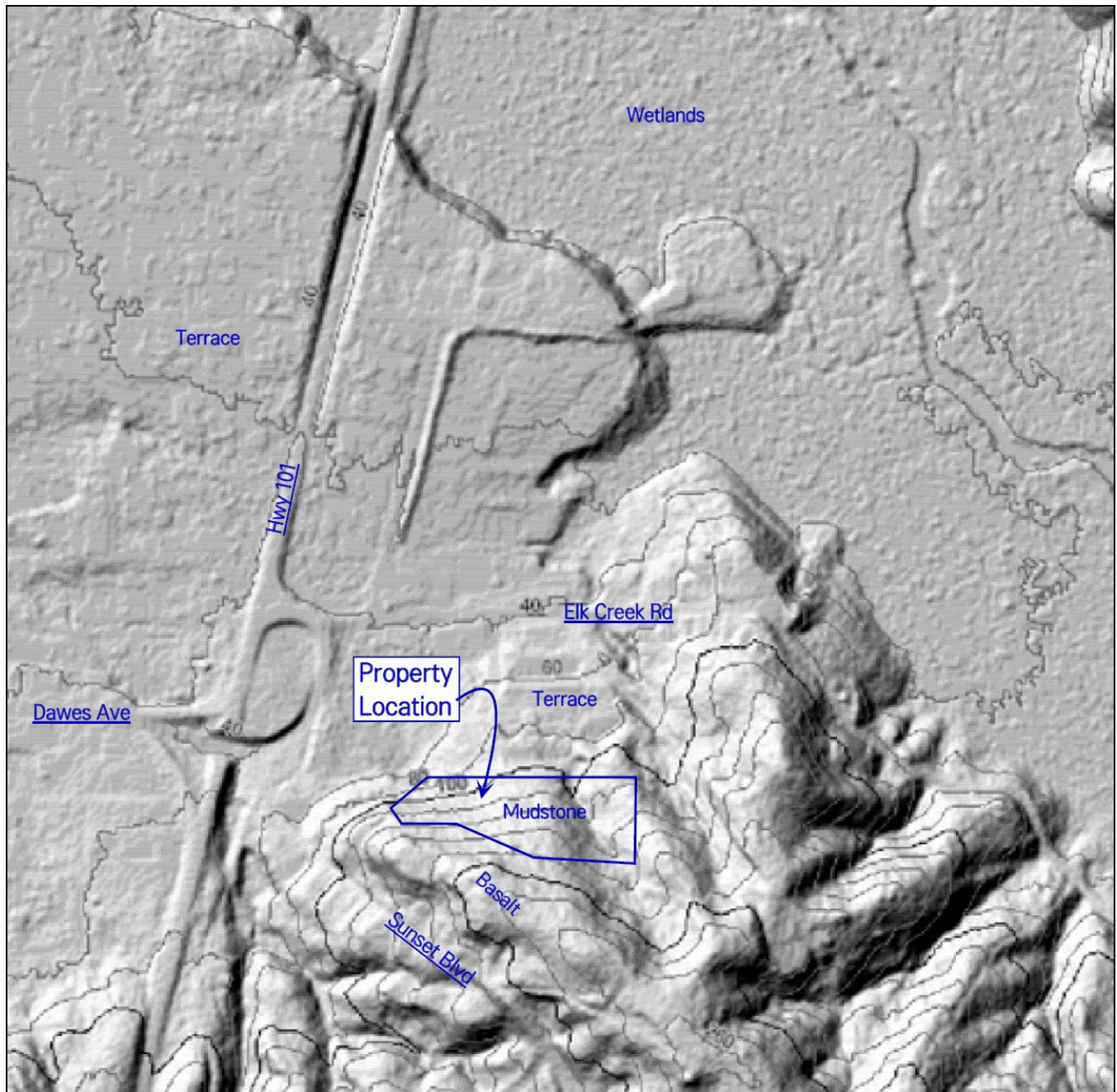
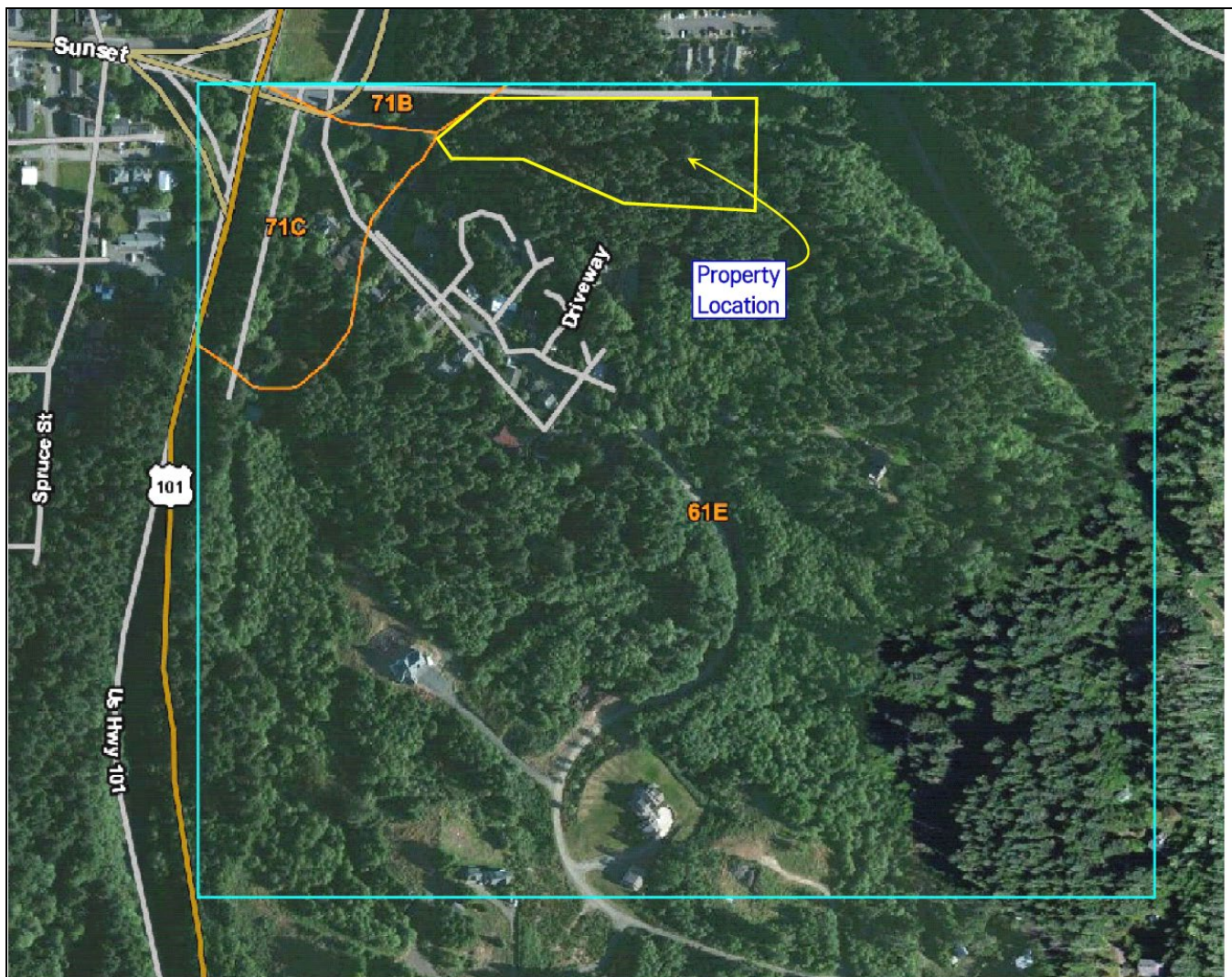


Figure 3: LIDAR shaded relief map for the project area in the east part of central Cannon Beach. Roads and geology annotated where possible.



Clatsop County, Oregon (OR007)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
61E	Templeton-Ecola silt loams, 30 to 60 percent slopes	84.3	92.9%
71B	Walluski silt loam, 0 to 7 percent slopes	0.9	0.9%
71C	Walluski silt loam, 7 to 15 percent slopes	5.6	6.2%
Totals for Area of Interest		90.8	100.0%

Figure 4: Soils map for east-central Cannon Beach. Templeton-Ecola silt loam includes ML-CL clay-silt that is derived from weathered sedimentary bedrock. The type section of the soils is approximately 60 inches deep.

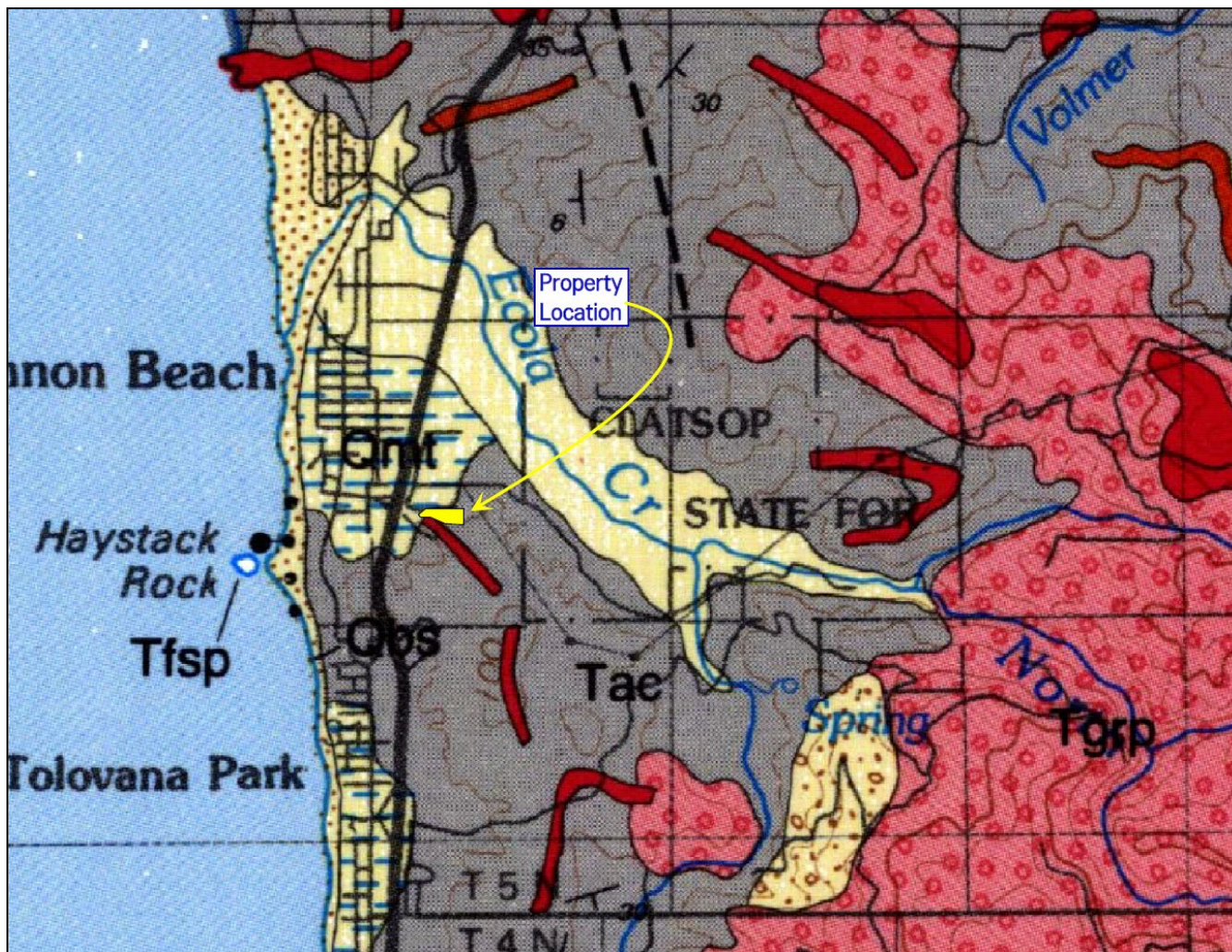


Figure 5: Geologic map of the Cannon Beach vicinity, after Niem and Niem (1985). Mudstone of the Cannon Beach member of the Miocene Astoria Formation (Tac) is overlain by glassy fragmental rubble of the Grande Ronde lavas of the Miocene Columbia River Basalt Group (Tgrp) and invaded by coeval lavas to form dikes and sills (dark red). Pleistocene coastal terrace deposits (Qmt) overlie and lap onto the mudstone, whereas younger river alluvium (buff) fills incised canyons. An inferred fault cuts the mudstone in the north part of the map. The project site (yellow) partly covers a basalt dike, but mostly overlies mudstone bedrock.

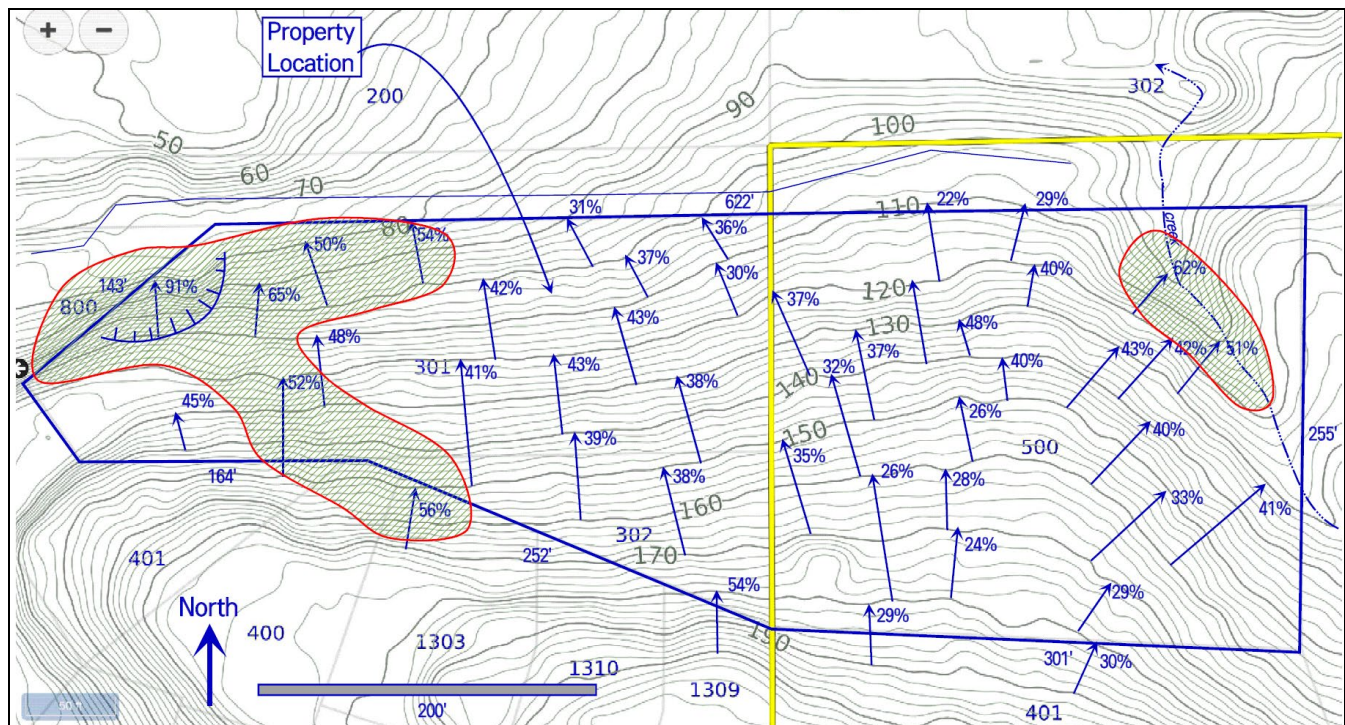


Figure 6: Project area is demarcated by heavy blue line. Slopes are calculated from the topographic contours; downslope direction indicated by arrows, inclinations in percents. Areas where slopes are steeper than 50 percent (2 Horizontal to 1 Vertical) are cross-hatched and outlined in red. Slopes less than 50 percent are regarded as stable. Slopes steeper than 67 percent (1.5 Horizontal to 1 Vertical) should be avoided.

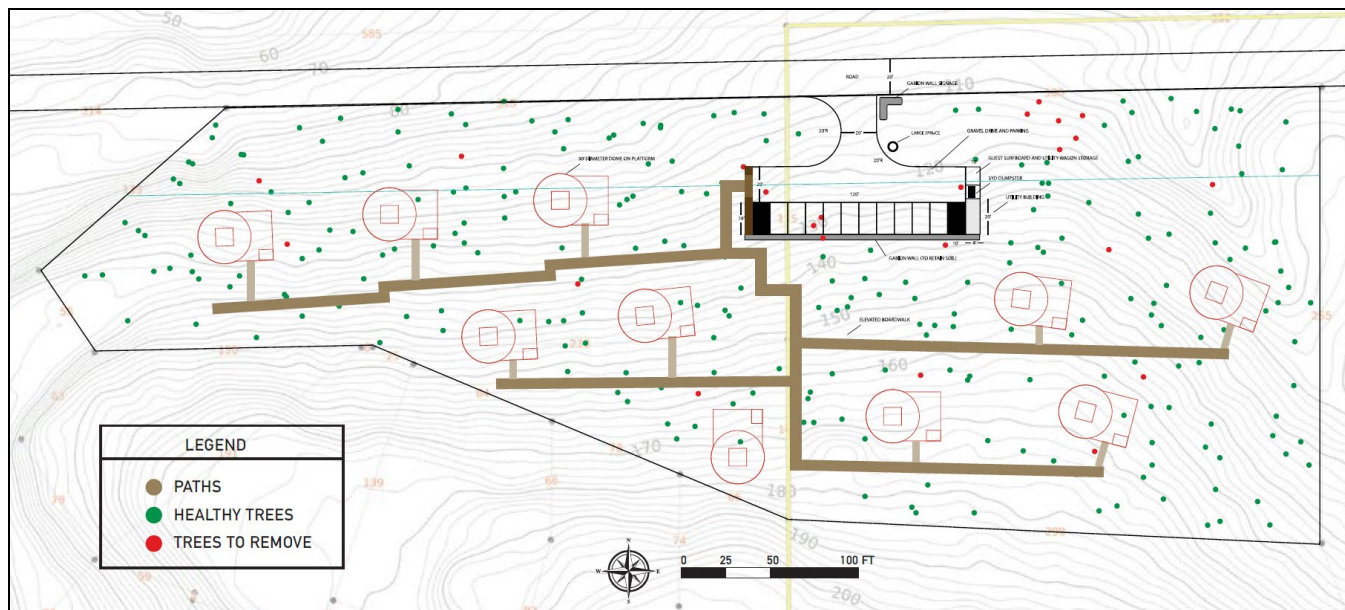


Figure 7: Development plans provided by the client.

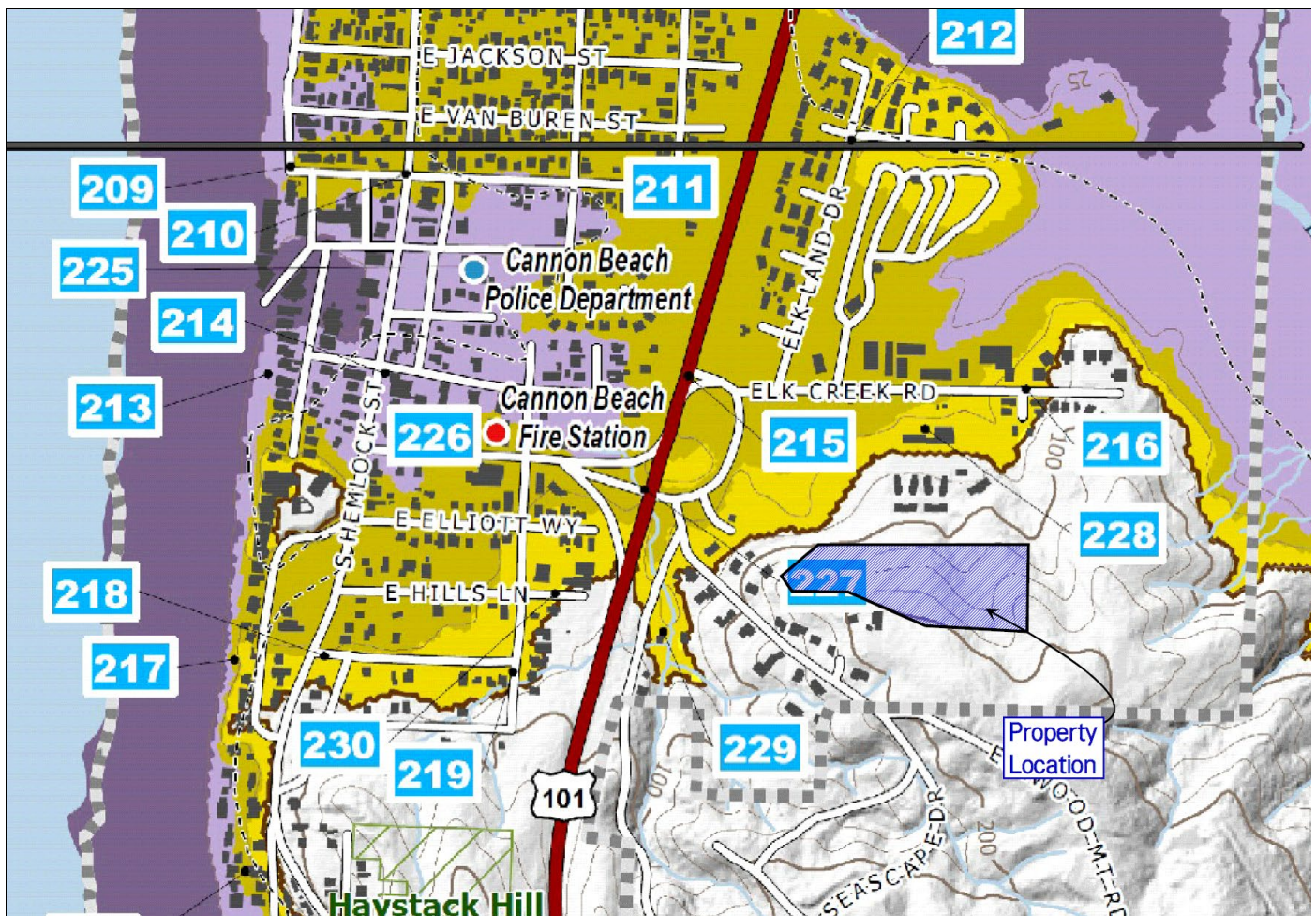


Figure 8: Tsunami inundation map for Cannon Beach; courtesy of DOGAMI. The project area lies outside of all modeled tsunami scenarios, which are color coded for waves of increasing elevation.



CITY OF CANNON BEACH

October 6, 2021

CU 21-02, Joe Mansfield request for a Conditional Use permit for Privately Owned Campgrounds to create an eco-retreat featuring 8-10 lightweight geodesic domes. The property is located on Reservoir Road (Tax Lot 00500, Map 51029CA) in an Open Space/Recreational (OSR) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.28 Open Space/Recreational & 17.80 Conditional Uses.

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 **Thursday, October 28, 2021 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

CU 21-02, Joe Mansfield request for a Conditional Use permit for Privately Owned Campgrounds to create an eco-retreat featuring 8-10 lightweight geodesic domes. The property is located on Reservoir Road (Tax Lot 00500, Map 51029CA) in an Open Space/Recreational (OSR) Zone. The request will be reviewed under Cannon Beach Municipal Code 17.28 Open Space/Recreational & 17.80 Conditional Uses.

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.

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.


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

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

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

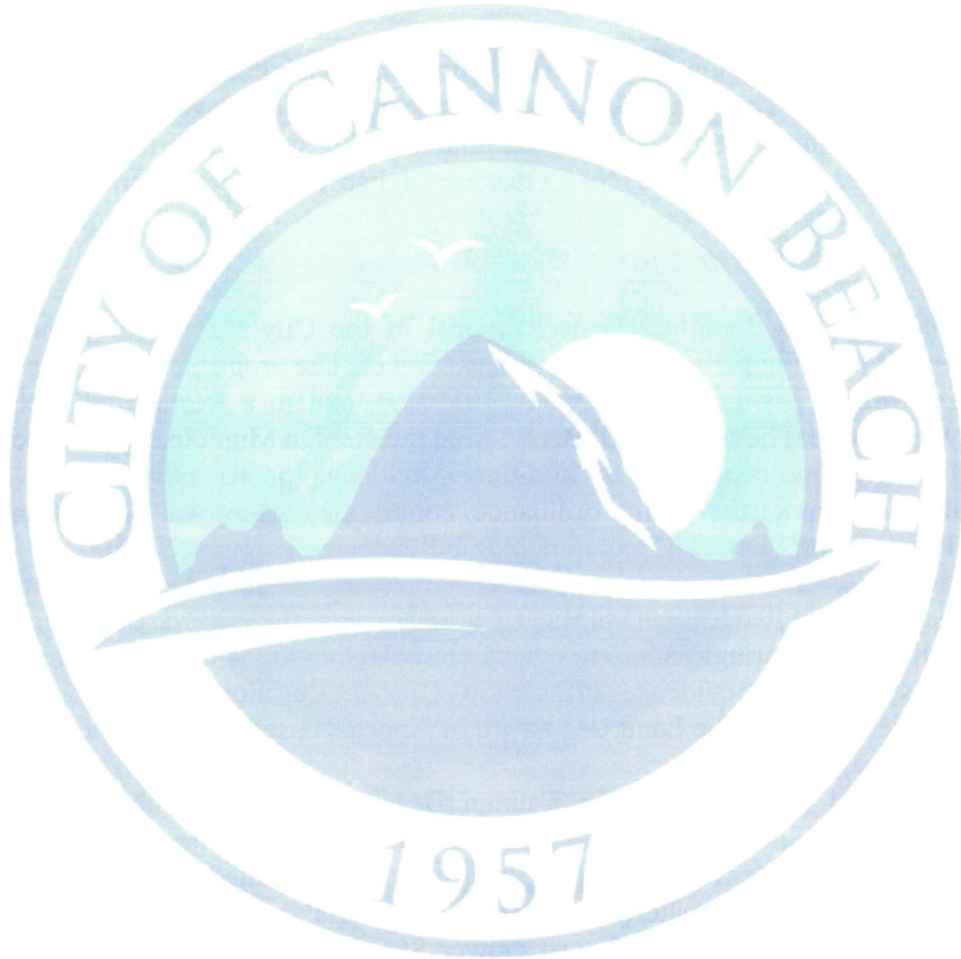
NOTICE TO MORTGAGEE, LIEN-HOLDER, VENDOR OR SELLER:
PLEASE PROMPTLY FORWARD THIS NOTICE TO THE PURCHASER

available in alternate formats and the meeting is accessible to the disabled.



Jeffrey C. Adams, PhD
Director of Community Development

Posted/Mailed: **October 6, 2021**

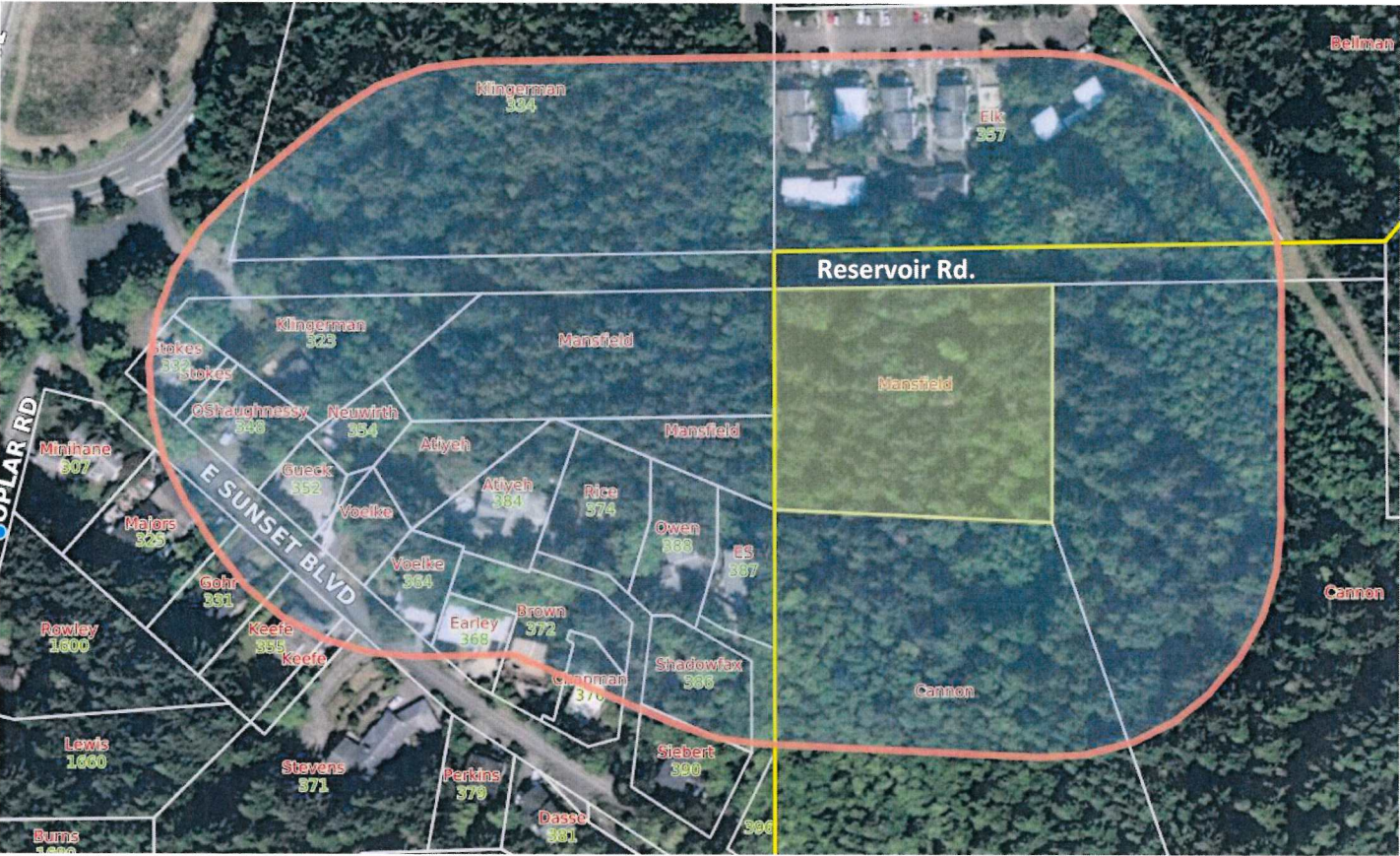


**CONDUCT OF PUBLIC HEARINGS BEFORE
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- 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.

CU21-02, Mansfield
Taxlot 51029CA00500



CU21-02, Mansfield

TL-51029CA00500

TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADDR	CITY	STATE	ZIP_CODE
51029CA00300		Bellman Shirley	PO Box 262	Cannon Beach	OR	97110
51029CA00302	357 Elk Creek Rd	Elk Creek Terrace Lmt	PO Box 490	Enterprise	OR	97828
51029CA00401		Cannon Beach Conference	PO Box 398	Cannon Beach	OR	97110-0398
51029CA00500		Mansfield Joseph F	2111 SE 28th PL	Portland	OR	97214
51029CB00200	334 Reservoir	Klingerman Norma Gail	PO Box 213	Cannon Beach	OR	97110-0213
51029CB00400	384 Sunset Blvd	Atiyeh Robert V	PO Box 1426	Cannon Beach	OR	97110
51029CB00502	372 Sunset Blvd	Brown Andrew Susan Family Trust	1525 SE 24th Ave	Portland	OR	97214
51029CB00501	368 Sunset Blvd	Earley Heather Ann	87943 Highway 202	Astoria	OR	97103
51029CB00503	376 Sunset Blvd	Chapman Tina M	PO Box 157	Cannon Beach	OR	97110
51029CB00600	364 Sunset Blvd	Voelke Jean L	PO Box 537	Carmichael	CA	95609-0537
51029CB00801	354 Sunset Blvd	Neuwirth Brooke	PO Box 1129	Cannon Beach	OR	97110
51029CB00901	332 Sunset Blvd	Stokes Kimberly	14305 NW 25th Ct	Vancouver	WA	98685
51029CB00904	348 Sunset Blvd	OShaughnessy Dennis E	PO Box 223	Cannon Beach	OR	97110-0223
51029CB00905	352 Sunset Blvd	Gueck Stephen L	881 NW Forest Creek Dr	Hillsboro	OR	97124
51029CB01001	325 Sunset Blvd	Majors Linda A/Bryce	PO Box 1164	Cannon Beach	OR	97110-1164
51029CB01100	331 Sunset Blvd	Jerome Schiller	1928 SW Montgomery Dr.	Portland	OR	97201
51029CB01200	355 Sunset Blvd	Keefe Jerald Wayne	1151 SE 50th Ave	Portland	OR	97215
51029CB01300	371 Sunset Blvd	Stevens Irving M	PO Box 7	Cannon Beach	OR	97110
51029CB01303	374 Sunset Blvd	Rice Robert R	PO Box 1388	Cannon Beach	OR	97110
51029CB01308	390 Sunset Blvd	Siebert Rodney P/Mary E	PO Box 971	Cannon Beach	OR	97110-0971
51029CB01309	387 Sunset Blvd	ES Estates LLC	PO Box 1357	Fall City	WA	98024
51029CB01310	388 Sunset Blvd	Owen Donald Kyle	21014 NE 190th Ct	Battle Ground	WA	98604
51029CB01390	386 Sunset Blvd	Shadowfax Group LLC	1500 NW 136th Ave	Portland	OR	97229



Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **ZO 21-02**, JEFF ADAMS APPLICATION, ON BEHALF OF CITY OF CANNON BEACH, REQUESTING A TEXT AMENDMENT OF THE CANNON BEACH MUNICIPAL CODE TITLE 16 SUBDIVISION ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTER 4 LOT LINE ADJUSTMENTS PROHIBITING THE COMBINATION AND RECOMBINATION OF LOTS TO MAKE LARGER LOTS; AND TITLE 17 ZONING ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTERS 8 RESIDENTIAL VERY LOW DENSITY, 10 RESIDENTIAL LOWER DENSITY, 12 RESIDENTIAL MODERATE DENSITY, 14 RESIDENTIAL MEDIUM DENSITY, 16 RESIDENTIAL HIGH DENSITY, 18 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING AND 20 RESIDENTIAL MOTEL RESTRICTING GROSS FLOOR AREAS FOR RESIDENTIAL STRUCTURES AND ALL ACCESSORY STRUCTURES INCLUDING ACCESSORY DWELLING UNITS TO 3,500 SQUARE-FEET; AND LIMITING FLOOR AREA RATIOS AND LOT COVERAGE FOR EACH RESIDENTIAL DISTRICT; WHILE REPEALING CHAPTER 40 PLANNED DEVELOPMENT

Agenda Date: October 28, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

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

- A. Notice was posted at area Post Offices on October 6th, 2021;
- B. Notice was provided to the Oregon Department of Land Conservation and Development as required by ORS 197.010;

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 September 22, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Application packet, including **ZO 21-02**, Received September 22, 2021;
- A-2** ZO# 20-21 Cannon Beach Subdivision & Zoning and Ordinance Track One Amendments, Planning Commission Edition Revised (10/21/2021);

“B” Exhibits – Agency Comments

None at the time of writing

“C” Exhibits – Cannon Beach Supplements

None at the time of writing

“D” Exhibits – Public Comment

- D-1** Email correspondence from Claudia and Michael Gray, received September 7, 2021;
- D-2** Email correspondence from Cleita and Eric Harvey, received September 7, 2021;
- D-3** Email correspondence from Jody Teetz, Jill and Scott VanBlarcom, received September 7, 2021;
- D-4** Email correspondence from Peter and Tamara Musser, received September 8, 2021;
- D-5** Email correspondence from Gregg and Sabrina Barton, received September 6, 2021;
- D-6** Email correspondence from Maureen F. Browne and Michael K. Byars, Jr., received September 7, 2021;
- D-7** Email correspondence from Dave and Patti Rouse, received October 8, 2021;
- D-8** Email correspondence from Jay Shepard, received October 16, 2021;
- D-9** Letter received from Jill and Steve Martin, stamped October 18, 2021;
- D-10** Email correspondence from Gary King, received October 19, 2021;
- D-11** Email correspondence from Judi McLaughlin, received October 21, 2021;
- D-12** Email correspondence from Steven Moon, received October 21, 2021;
- D-13** Email correspondence from Jeff and Jodi Moon, received October 21, 2021;

BACKGROUND

The City Council has asked for the Cannon Beach Planning Commission to consider a two-track approach to the code audit and zoning ordinance amendment process that will begin this month. City Council has voiced its concern over the rising threat of residential development that is combining lots to develop larger and larger homes that are not in keeping with the village aesthetic. Since the Code Audit process is projected to take the better part of two years to get to approvable and adoptable language, the Council is asking for an initial track to resolve the combination of lots and home-size issue, before tackling the other issues in the comprehensive code audit analysis.

Staff provided three options towards correcting the threat of home demolitions, paired with the recombination of lots and over-sized replacement homes, maximizing lot coverage and floor-area ratios to the Planning Commission in a series of work sessions that ended in a joint work session with the City Council. Option 1 provided the simplest adjustment, by prohibiting the combination or recombination of parcels and lots. Option 2 went a step further by limiting floor area ratios and gross floor areas of single-family dwellings and their accessory structures, by zoning districts. Option 1 and Option 2 were then combined to further restrict development with a maximum gross floor area, first considered as 2,000 SF, but Option 3 attempted to meet such a prohibitive measure by utilizing a progressive lot coverage and floor-area ratio to provide some ability to build larger homes on larger lots, while discouraging the recombination of lots and scaling incentives to benefit more smaller units per property through the LC and FAR bonuses.

City Council has directed the Planning Commission to consider striking Chapter 17.40, Planned Development (PD) Overlay Zone section of the Zoning Ordinance, along with any secondary references and those were incorporated into the language in July.

The Planning Commission (PC) held a July 2021 work session to discuss these proposed zoning ordinance amendments and options that prohibited the recombination of lots, placed dimensional limits of floor-area-ratio and lot coverage, as well as, repealed the Planned Development chapter. The PC recommended staff bring back text amendments keeping the proposed restrictions to combining lots and striking the PD but decided to keep the FAR and Lot Coverage ratios as they currently stand. The caveat in keeping these dimensional standards was to cap the square footage of all single-family dwellings and their accessory structures, including their accessory dwelling units at 3,500 SF of gross floor area. Further, they asked for language limiting Oceanfront Management structures to fourteen-foot average and eighteen-foot peak building height.

The Cannon Beach City Council, Planning Commission and Design Review Board held its initial Code Audit Kick-off Meeting on September 8th, 2021 to discuss the Two-Track process and items to be considered in the expedited Track-One Amendments. The Joint Work Session agreed that the City will move forward with four of the five items, shelving the Oceanfront Building Height discussion for the Track-Two changes and the full Code Audit review.

The Planning Commission will hold a Public Hearing on October 28th, 2021 on the subdivision and zoning ordinance amendments, at its regularly scheduled Public Meeting. Public Comment information can be found at the City's website (www.ci.cannon-beach.or.us) and by contacting Cannon Beach Community Development, at City Hall, 163 E. Gower St. PO Box 368, Cannon Beach, OR 97110, 503.436.8054, planning@ci.cannon-beach.or.us.

The Proposed changes to the Subdivision and Zoning Ordinances involve three major revisions:

1. The City is proposing to limit the combination or recombination of contiguous properties, except for those that are required to be combined to meet the minimum lot size requirements of the zoning district. In other words, to limit the potential of buying two or more adjacent properties, demolishing structures to build larger homes, the City seeks to prohibit such development through amendments to the lot line adjustment language.

2. The City seeks to limit the scale of residential construction through amendments to the Floor Area Ratio and Lot Coverage allowed in each of the residential zoning districts and by placing a 3,500 square-foot gross floor area limit on all residential structures and their accessory structures. The "gross floor area" means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.
2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city's building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building's foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area.

3. Whereas, it is the intent of the Planned Development (PD) chapter to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision, yet as the City has found out in its one approved PD, such 'flexibility' isn't always positive. The City has yet to see an 'upside' of such 'flexibility' and is seeking to repeal the PD language from the Cannon Beach Municipal Code.

APPLICABLE CRITERIA

Chapter 17.86 AMENDMENTS

17.86.040 Investigation and report.

The city manager shall make or cause to be made an investigation to provide necessary information on the consistency of the proposal with the comprehensive plan and the criteria in Section 17.86.070. The report shall provide a recommendation to the planning commission on the proposed amendment. (Ord. 89-3 § 1; Ord. 79-4 § 1 (9.040))

17.86.070 Criteria.

A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the comprehensive plan;

Applicable Comprehensive Plan Policies are provided below for the Commission's consideration:

1. In order to maintain the city's village character and its diverse population, the city will encourage the development of housing which meets the needs of a variety of age and income groups, as well as groups with special needs.
6. The City recognizes the importance of its existing residential neighborhoods in defining the character of the community and will strive to accommodate new residential development in a manner that is sensitive to the scale, character and density of the existing residential development pattern.
10. The city will encourage the preservation of the older housing stock

Cannon Beach will continue to be a small town where the characteristics of a village are fostered and promoted. Both the physical and social dimensions associated with a village will be integral to Cannon Beach's evolution.

Staff Comment:

The criteria for approval of a zoning ordinance amendment are rather brief. The Planning Commission must find that the amendments are consistent with comprehensive plan and that they will not adversely affect the city's ability to satisfy land and water use needs.

The city has various policies in its comprehensive plan calling for the maintenance of the city's village character through the consideration of character, scale and density in its growth management practices.

Lot Combinations

The first provision of the proposed changes addresses a growing concern over the combining of lots to make larger holdings to build larger homes. Although we have no clear way to track how many lots have been combined, since we have no distinct land use action, such as replat or re-subdivision, which some jurisdictions call such activities, we can track how many homes have been demolished over recent years. The demolition data shows that the city averages five demolitions a year for the past eight years. Last year saw the most of any year, with eight demolitions approved and yet, as of this writing, this year has seen only four. It would be difficult to say that there has been a marked increase over the past few years in teardowns and rebuilds, but the amendments proposed would limit combining properties to 'game' the Floor Area Ratio (FAR) and Lot Coverage (LC) 'system' of controlling for size.

Totals	Demos
--------	-------

2014	2
2015	6
2016	6
2017	5
2018	5
2019	4
2020	8
2021	4
	40

Demolitions of Structures in Cannon Beach by Year, 2014-2021 (Cannon Beach Public Works files)

Size Limitations

The second provision is a strict size limitation on properties restricting gross-floor area, including accessory structures, to 3,500 square-feet (SF) per lot. This measure is built on the gross floor area definition:

17.04.283 Gross floor area.

“Gross floor area” means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.
2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city’s building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building’s foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area.

The gross floor area definition might not be the cleanest of definitions, as has been recently ‘tested’, where the Building Official’s determination has come under scrutiny in the determination of ‘habitability,’ yet revisions to such language has been deferred to the ongoing code audit process.

At the recent code audit joint work session there was interest in examining residences in Cannon Beach that are challenging the village character by scale or design concerns. Staff offered that one might begin by having a review of the residences built over the past three years in Cannon Beach, while comparing these new homes with the proposed amendments. Of the 44 new residences built since 2018, the vast majority were built in the R1 and R2 Medium and Moderate Density Residential zoning districts, with 10.53% of the R1 and 16.67% of the R2 homes exceeding the gross floor area limit of 3,500 SF. These numbers are a marked increase over the average of the complete Cannon Beach residential housing study set, where just 6.33% fall over 3,500 SF, according to the Clatsop County Assessor’s data. In fact, this recent increase tracks with the growth by decade of homes over 3,500 SF, which has grown from just under 2% of homes built prior to 1950, to nearly a third of the homes built in the past ten years.

	Lots	3500+	Exceeds	LC%	FAR%	FAR 50+	FAR 50+%
R1	19	2	10.53%	33.30%	41.98%	12	63.16%

R2	18	3	16.67%	40.69%	45.76%	11	61.11%
R3	0	0					
RL	3	0	0.00%	47.35%	54.16%	2	66.67%
RVL	2	1	50.00%	42.25%	47.71%	1	50.00%
RAM	1	0	0.00%	12.6%	14.7%		
MP	1	0	0.00%	8.30%	5.60%		
TOTALS	44	6	13.64%	33.11%	38.70%	26	59.09%

2018-2021 New Single-Family Residential Structures Built in Cannon Beach (City Building Department Files)

Year	Lots	Avg. SF	Exceeds	%Exceeds
Pre-1949	384	1,393.9	7	1.82%
1950-1959	93	1,470.1	3	3.23%
1960-1969	75	1,743.0	2	2.67%
1970-1979	284	1,442.5	7	2.46%
1980-1989	255	1,776.8	8	3.14%
1990-1999	266	2,072.5	16	6.02%
2000-2009	245	2,286.7	22	8.98%
2010-2019	72	2,244.4	22	30.56%

Average Square Footage of Structures in Cannon Beach, by Decade (Clatsop County Assessor Department Files)

Note: It should be noted that the complete study set calculates alterations and additions according to the year when their latest building permit was issued and includes 'attic space' but excludes 'garages'. For more on this study, please see the Appendix below.

Square Feet	TOTALS	Percent
1-999	331	19.77%
1000-1499	446	26.64%
1500-1999	329	19.65%
2000-2499	260	15.53%
2500-2999	159	9.50%
3000-3499	79	4.72%
3500-3999	29	1.73%
4000+	41	2.45%

Figure , Residential Square Footage of Structures in Cannon Beach

Lots and Avg. SF

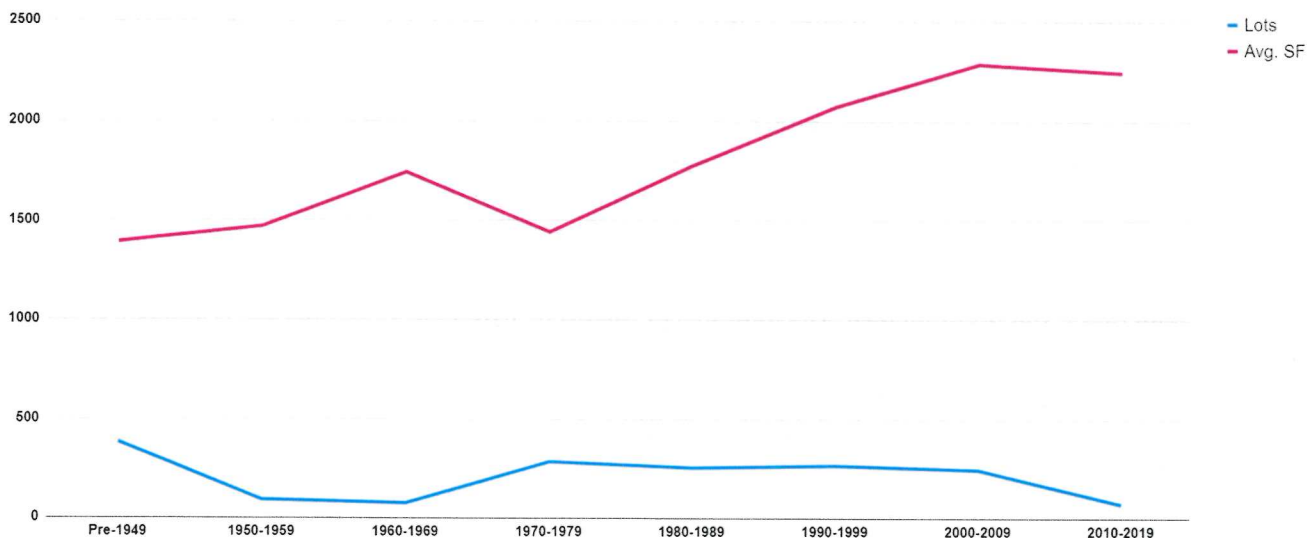


Figure , Average Square Footage of Structures in Cannon Beach by Decade

Square Footage of Structures

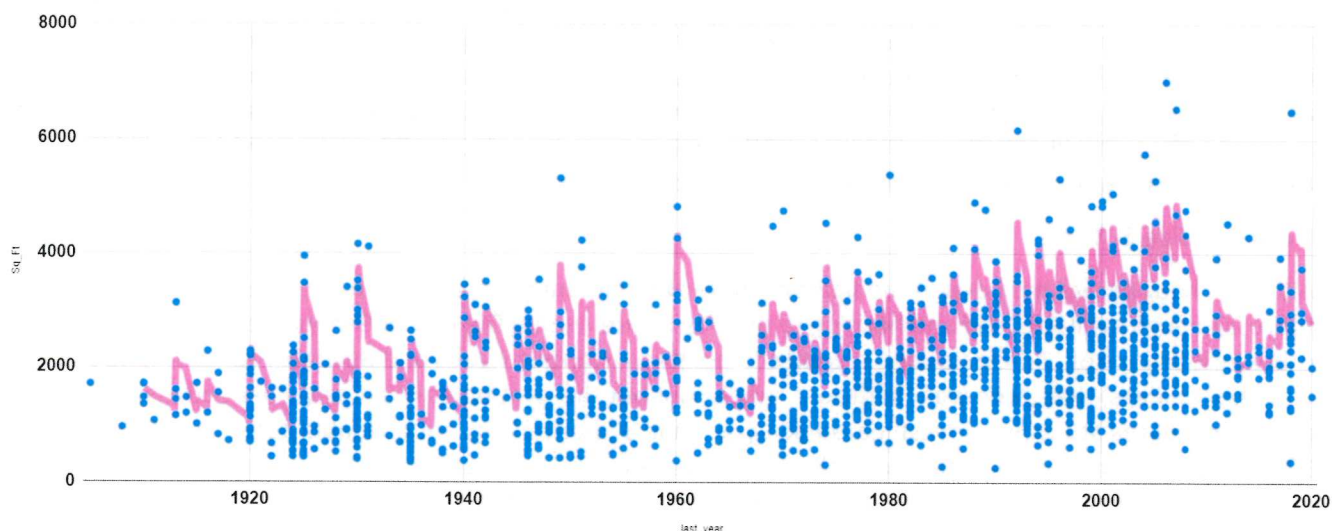


Figure , Distribution of the Square Footage of Structures in Cannon Beach by Decade

Although the proposed amendments do not contemplate significantly lowering the Lot Coverage (LC) and Floor Area Ratios (FAR), there has been contemplation through the Planning Commission's work sessions to lower LC and FAR numbers as a tool to limit the size of homes and their accessory structures. The proposed language provides a scaling of LC and FAR proportions to restrict larger lots from developing more of their lots and is representative of what the Planning Commission reviewed in their earlier work sessions. The proposed language for the subdivision and zoning amendments also has a staff produced chart on page 12, which can be used as reference when considering the impact of changing such numbers.

The scaling formula was offered to allow for some incentives for those who might want to offer a second unit, or more, whether in R2 districts for a second dwelling unit or in other Residential districts to allow for an Accessory Dwelling Unit (ADU) and to provide such properties more FAR. For instance, if someone had a 5,000 SF property and wanted to offer a second dwelling unit (2ndDU+FAR) or ADU they would be able to have 3,500 SF gross floor area rather than 3,000 SF (1stDUFAR).

Planned Developments

The proposed language also repeals Chapter 17.40 Planned Development (PD) Overlay Zone from the Cannon Beach Municipal Code. As the purpose states, “It is the intent of this chapter to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision. In this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses; the economy of shared services and facilities; compatibility of surrounding areas; and the creation of attractive, healthful, efficient and stable environments for living, shopping or working.”

The Cannon Beach Preservation Subdivision, also known as the Nicholson Planned Development, has been the only PD passed under the PD ordinance. The approval of the PD in 2016 has led to numerous appeals at the local and state level and has yet to see a home built on any of the four approved lots as of this writing. Though the purpose of the PD language is to build flexibility into the development code, it might be telling that the first and only PD approved was so flexible that it didn’t abide by the minimum size requirements, according to CBMC 17.40.020(A)(1):

“Planned residential development may be established in residential zones on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of the comprehensive plan and this title. The site shall include not less than three acres of contiguous land,”

If we were to take a strict reading of the “not less than three acres of contiguous land,” we would have only around twenty properties in Cannon Beach that would have sufficient property that meets or exceeds the required three acres for such a development. In fact, many of these properties have already been either developed or partially developed and the majority have environmental constraints, such as wetlands, flood areas or steep slopes. In other words, only about 1% of the lots in Cannon Beach are eligible for a PD under the size restrictions provided in the ordinance and these are properties where a PD might provide buildable options to lands that are not prone to traditional lot and block development.

Housing, Size & Type

Although housing size has been at the heart of these amendments, there has also been discussion of whether there is enough available land and housing to provide future needs. The City of Cannon Beach along with the other jurisdictions of Clatsop County, recently completed a Housing Needs and Buildable Lands Analysis in 2019, with ‘key findings’ that there was “sufficient supply, but not the right types of housing.” Indeed, Cannon Beach at the time of the study, had an estimated 86 vacant and 37 partially vacant buildable acres and 329 vacant and 123 partially vacant housing units, yet 79% of those acres are in Low (RL) or Very Low Residentially (RVL) Zoned areas and 57% of the partially vacant or vacant housing units are in the RL or RVL districts. More telling is that only 2% of the partially or vacant lands potentially buildable acres are in R3 High Density Zoning areas and just .2% of the housing unit capacity.

The Buildable Lands Inventory and Needs report noted the marked rise in median home pricing throughout Clatsop County, including Cannon Beach’s \$500,500 for 2019, which has only continued to increase since the study, yet the study didn’t delve into the granular level of ownership, size or how transient or vacation housing complicates traditional notions of supply and demand. For instance, it has been a constant point of contention over the past couple of years and especially since the recent release of the Census population numbers, that the City of Cannon Beach is seeing increasing numbers of seasonal populations, which aren’t reflected in the Portland State University’s population estimates or growth projections and the U.S. Census’ loss of population numbers. By any calculus, the City, region and many would say, the nation, is suffering through a housing crisis and although the City took steps in 2017 to collect a construction excise tax towards affordable housing there has been only eight new workforce units constructed, while 44 new single-family units have been constructed over the same time-span.

Grandfathering

Lastly, concern has been raised over ‘grandfathering’ properties that have already been built and limiting such size limitations to those properties seeking new residential building permits. The proposed language doesn’t

have such a provision and would instead place all properties currently over 3,500 SF in gross floor area or exceeding the LC or FAR in a non-conforming state. Those properties would then be required to abide by the non-conforming language of Chapter 17.82 Nonconforming Lots, Uses and Structures, supplied in the appendix below. Grandfathering arose while the Planning Commission was considering 2,000 SF as the initial point of discussion for maximum size, which would have likely impacted at least a third of the homes in Cannon Beach. Now that the current language proposed only impacts approximately 5% of the homes, such concern for those existing homes over 3,500 SF has been limited.

STAFF RECOMMENDATION

Staff recommends approval of the removal and repeal of the Planned Development language at least until it can be reconsidered in a more holistic approach, as part of the Code Audit process, where the entire development process and code can be evaluated along with new tools such as Form-Based Code in maintaining and sustaining the character of the village.

Second, staff recommends approval of the language limiting lot combinations. Although there may be instances where it might be advisable to combine properties to get holdings large enough to build multifamily or multiuse facilities, these can be discussed during the Track Two changes.

Third, controlling unit size through LC and FAR will be of little use for those properties over 7,000 SF due to the restriction of size to 3,500 SF gross floor area. The more valid use of LC and FAR adjustments is to accommodate additional LC and FAR for those that provide a second dwelling unit or more on a property. If the City is indeed intent on encouraging and incentivizing a broader range of housing types and sizes, then this is an opportunity to take steps towards supporting these measures.

In fact, there could be a condition attached that requests the City Council consider encouraging an Accessory Dwelling Unit program for workforce housing, where the construction excise funds being collected, now over \$180,000 could be used to provide building permit fee forgiveness or other types of support in an agreement that the owner would sign with their workforce program affidavit that guaranteed long-term rental housing for a workforce capped rental rate.

Finally, the Commission should keep in mind that these Track One measures can each be reassessed under the full code audit process and in any proposed amendments that result from that process.

PLANNING COMMISSION ACTION

MOTION: Having considered the evidence in the record, I move to (approve/approve with conditions/or deny) the City of Cannon Beach application for text amendments to Titles 16 Subdivision and 17 Zoning, Chapters 8 Residential Very Low Density, 10 Residential Lower Density, 12 Residential Moderate Density, 14 Residential Medium Density, 16 Residential High Density, 18 Residential Alternative/Manufactured Dwelling and 20 Residential Motel, while repealing Chapter 40 Planned Development from Title 16, application **ZO#21-02**, as discussed (subject to the following conditions) and requests that staff forward these recommendations to the Cannon Beach City Council for consideration and adoption.

1. Workforce Accessory Dwelling Unit program, where the construction excise funds being collected, now over \$180,000 could be used to provide building permit fee forgiveness or other types of support in an agreement that the owner would sign with their workforce program affidavit that guaranteed long-term rental housing for a workforce capped rental rate.

APPENDIX

The Clatsop County Assessor's data set provides the best source of data for which to make an analysis of the building size, gross floor area, floor area ratio and gross floor area, however, as with any data set the information provided is not perfect. Staff provides some of the limitations below.

1. The data is sent on a taxlot property basis with many duplicates, which may result from the exportation of the data, where the taxlots print multiple records for under duplicate, merged and even what appears as dead accounts, which if searched under the County's 'Account ID' result in no records. For example, in Example 2 below, three records were exported for the property, which were combined to yield one record for the study set with 2,009 SF of gross floor area. It appeared from a review of the export that records may have been extracted for each 'year built' resulting in three records. The study set combines these multiple records into one for each property, sacrificing the multiple year data for a 'last year built.' So that if a structure was built in 1930, added a garage in 2000 and additional space in 2008, the property would have a 'last year built' of 2008, which corresponds to the larger sized properties in later years.
2. As in Example 1 below, it was evident from the export that garages were not included in the square footage and thus, the study set will provide an underestimation of the gross floor area and subsequently any FAR that might be calculated.
3. The data set also includes 'attic space' as calculable area and yet, the CBMC calls for a 'habitable space' determination by the Cannon Beach Building Official before allowing this to be calculated as gross floor area. This leaves the study skewed to over-calculate such square-footage for the study set.
4. Where two or more dwelling units exist on one taxlot, such as Example 3, they have been combined to yield one record for the property.


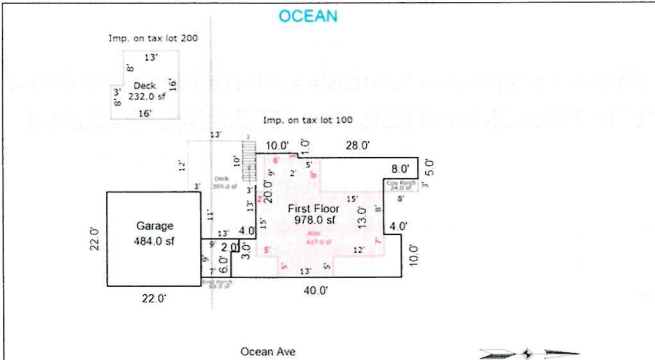
Clatsop County Property Information Search

263 Orford St, Cannon Beach OR
Account 1980

[Property Details](#) [Improvements](#) [Assessments](#) [Sales History](#) [Taxes](#) [Payments](#) [Documents](#)

Year Built	Sq Ft	Type	Stories
1938	1605	1 Story w/ Attic	1.2

Floor Type	Sq Ft	Bedrooms	Bathrooms
Attic	627	3	1
First Floor	978	1	1

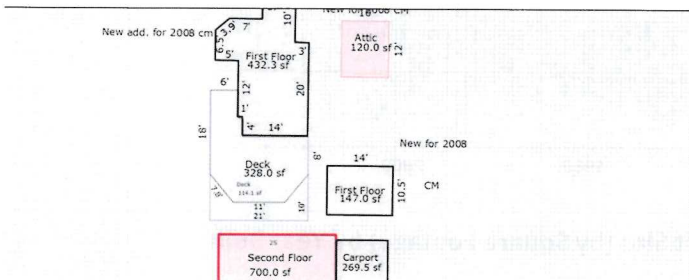


EXAMPLE 1: Square Footage Limitations

Property Details Improvements Assessments Sales History Taxes Payments Documents

Year Built	Sq Ft	Type	Stories
2000	147	1 Story	1.0
1930	552	1 Story w/ Attic	1.0
2008	1400	2 Story	2.0

Floor Type	Sq Ft	Bedrooms	Bathrooms
Attic	120	1	0
First Floor	432	1	1
First Floor	700	1	1
Second Floor	700	2	1
First Floor	147	1	0

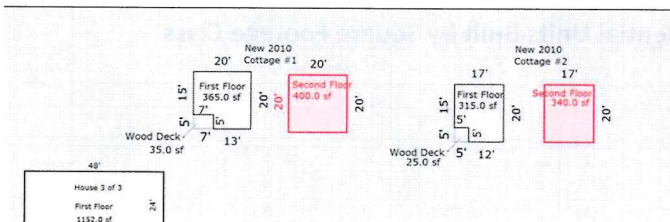


EXAMPLE 2: Multiple records for property

Property Details Improvements Assessments Sales History Taxes Payments Documents

Year Built	Sq Ft	Type	Stories
2008	765	2 Story	2.0
2008	655	2 Story	2.0
2013	2304	2 Story	2.0

Floor Type	Sq Ft	Bedrooms	Bathrooms
First Floor	365	1	1
Second Floor	400	1	1
First Floor	315		1
Second Floor	340	1	1
First Floor	1152	4	2
Second Floor	1152		1



EXAMPLE 3: Multiple dwelling units on single property

Original Lot Dimension Study, excerpted from the September 24, 2020 PC Staff Report

Figures

From Clatsop County Assessor Office Records (2019)

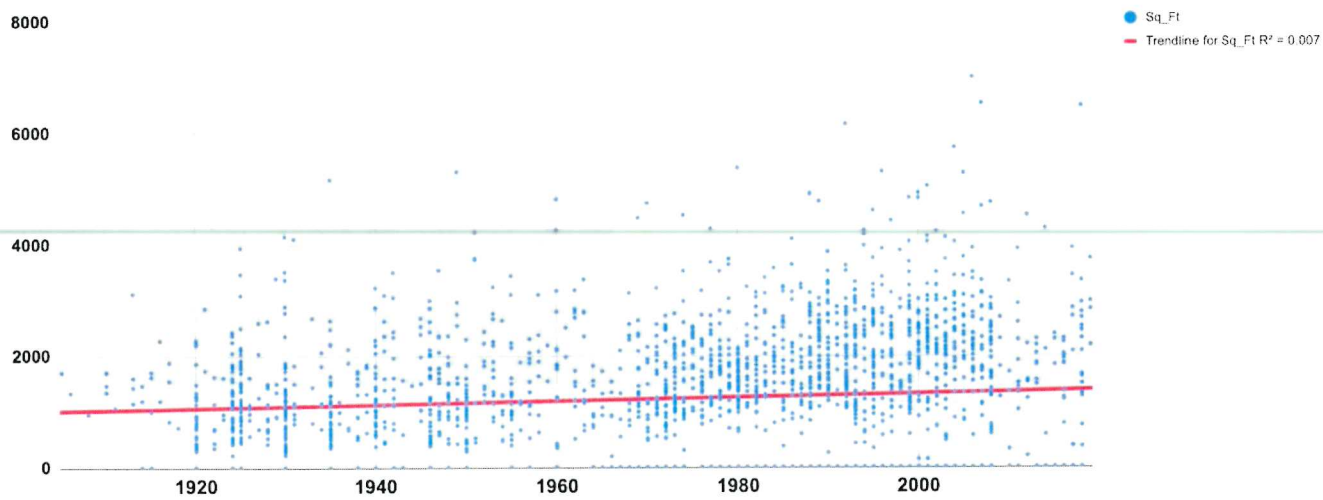


Figure 1. Cannon Beach Single-Family Residential Unit Size (by Square Footage) by Year Built

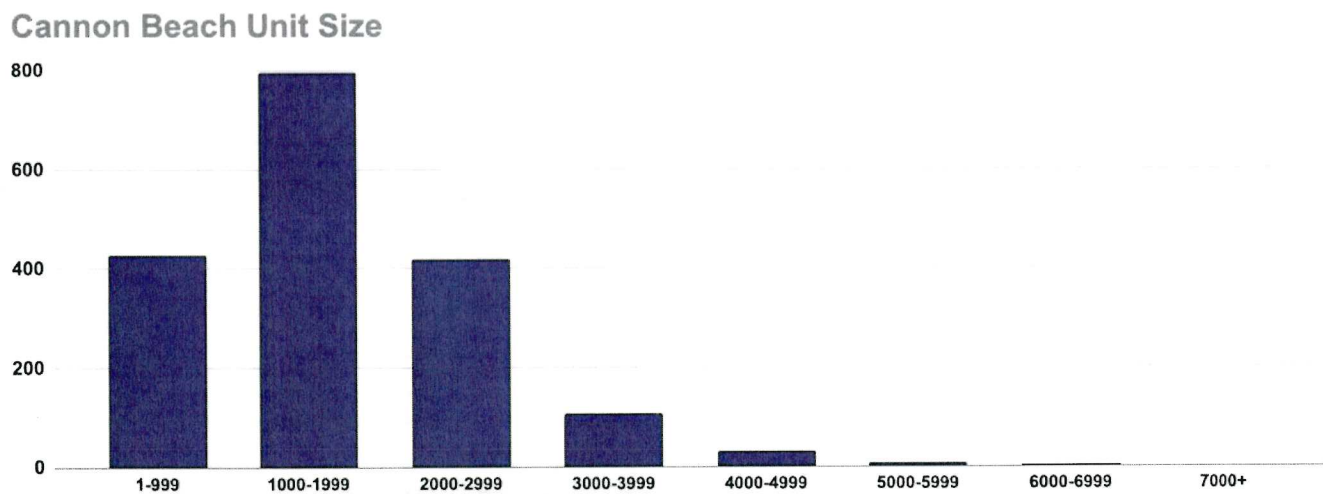


Figure 2. Number of Cannon Beach Single-Family Residential Units Built by Square Footage Class

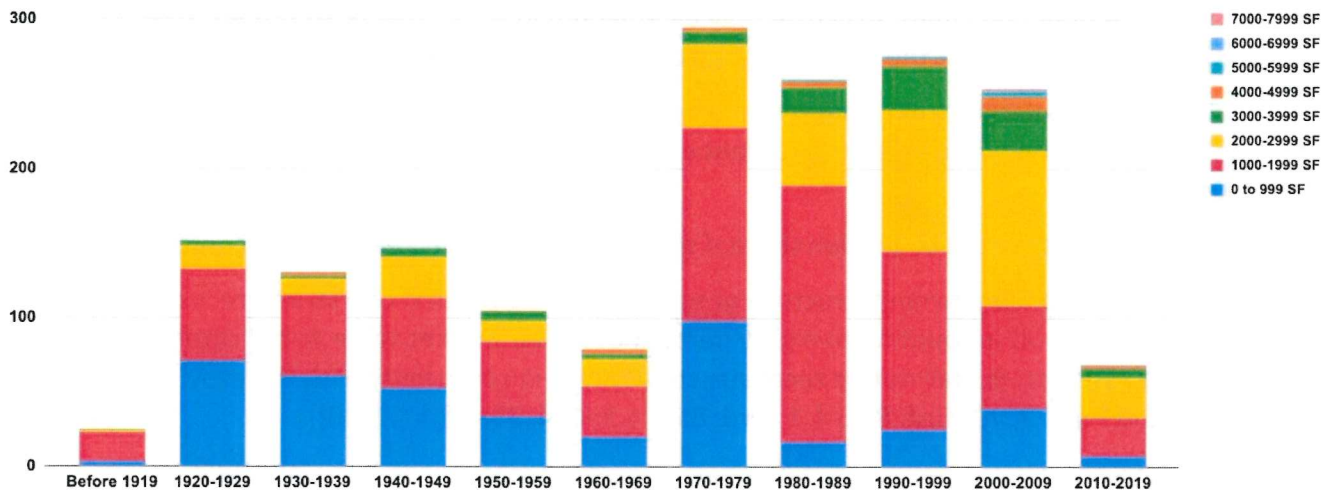


Figure 3. Number of Cannon Beach Single-Family Residential Units Built (by Class) each Decade

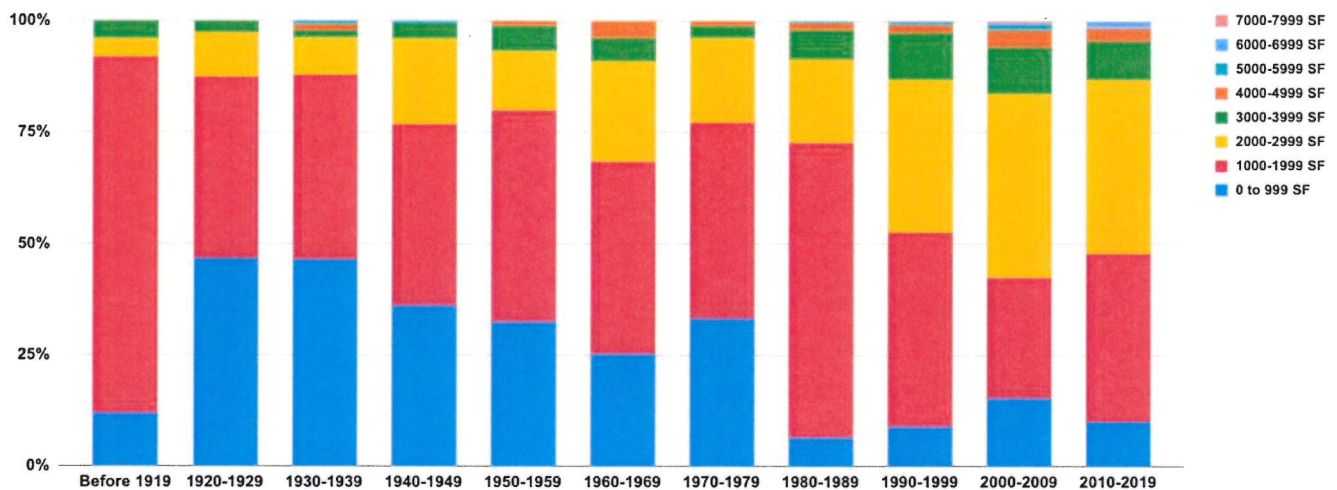


Figure 4. Percentage of Cannon Beach Single-Family Residential Units Built (by Class) each Decade

CANNON BEACH MUNICIPAL CODE TITLE 17

17.82.040 Nonconforming structures.

The following provisions apply to nonconforming structures:

A. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could no longer be built under the terms of this chapter by reason of restrictions on area, building coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may continue so long as it remains otherwise lawful.

B. A nonconforming structure may be altered in a way that does not increase its nonconformity so long as the proposed alteration (within a three-year period) does not exceed fifty percent of the fair market value of the building, as indicated by the records of the county assessor. Alterations in excess of fifty percent of the fair market value of the building may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

C. A nonconforming structure may be enlarged in a way that does not increase its nonconformity provided that the total building coverage does not exceed forty percent.

D. The enlargement or alteration of a nonconforming structure in a way that increases its nonconformity may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

E. Any structure or portion thereof may be altered to decrease its nonconformity.

F. If a nonconforming structure or nonconforming portion of a structure is destroyed by any means to an extent amounting to eighty percent of its fair market value as indicated by the records of the county assessor, it shall not be reconstructed except in conformity with the provisions of this title. (Ord. 92-11 §§ 72, 73; Ord. 89-3 § 1; Ord. 85-3 § 3; Ord. 79-4 § 1 (7.040))



CITY OF CANNON BEACH

AMENDMENT TO THE ZONING ORDINANCE TEXT

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

Applicant Name: Jeff Adams
Email Address: adam@ci.cannon-beach.or.us
Mailing Address: PO Box 368 Cannon Beach
Telephone: 503-436-8040
Property-Owner Name: _____
(if other than applicant)
Mailing Address: _____
Telephone: _____
Property Location: All of Cannon Beach
(street address)
Map No.: _____ Tax Lot No.: _____

AMENDMENT TO THE ZONING ORDINANCE REQUEST:

1. Description of the proposal.
Text amendments limiting the combination & recombination of lots restricting gross floor areas for residential structures including accessory structures to 3,500 SF & limiting FAR & Lot coverage in residential districts
2. Justification for the Zoning Ordinance amendment request. Explain how the request meets each of the following criteria for granting an amendment to the Zoning Ordinance.

Note: Use extra sheets, if necessary, for answering the above questions.

Fee: \$1,500

Applicant Signature: [Signature] Date: 9/22/2021
Property Owner Signature: _____ Date: _____

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

For Staff Use Only:

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



ZO 21-02 CANNON BEACH SUBDIVISION & ZONING ORDINANCE TRACK ONE AMENDMENTS

ZO 21-02 Titles 16 Subdivision & 17 Zoning Ordinance Text Amendments Revising Lot Combinations, Residential Dwelling Size Limitations, Lot Coverage and Floor Area Ratio Limitations for All Residential Districts, while Repealing Planned Development Language

TITLE 16 SUBDIVISION ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTER 4 LOT LINE ADJUSTMENTS PROHIBITING THE COMBINATION AND RECOMBINATION OF LOTS TO MAKE LARGER LOTS; AND TITLE 17 ZONING ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTERS 8 RESIDENTIAL VERY LOW DENSITY, 10 RESIDENTIAL LOWER DENSITY, 12 RESIDENTIAL MODERATE DENSITY, 14 RESIDENTIAL MEDIUM DENSITY, 16 RESIDENTIAL HIGH DENSITY, 18 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING AND 20 RESIDENTIAL MOTEL RESTRICTING GROSS FLOOR AREAS FOR RESIDENTIAL STRUCTURES AND ALL ACCESSORY STRUCTURES INCLUDING ACCESSORY DWELLING UNITS TO 3,500 SQUARE-FEET; AND LIMITING FLOOR AREA RATIOS AND LOT COVERAGE FOR EACH RESIDENTIAL DISTRICT; WHILE REPEALING CHAPTER 40 PLANNED DEVELOPMENT

PLANNING COMMISSION EDITION REVISED (10/21/2021)

October 2021

BACKGROUND

The City Council has asked for the Cannon Beach Planning Commission to consider a two-track approach to the code audit and zoning ordinance amendment process that will begin this month. City Council has voiced its concern over the rising threat of residential development that is combining lots to develop larger and larger homes that are not in keeping with the village aesthetic. Since the Code Audit process is projected to take the better part of two years to get to approvable and adoptable language, the Council is asking for an initial track to resolve the combination of lots and home-size issue, before tackling the other issues in the comprehensive code audit analysis.

Staff has provided three options towards correcting the threat of home demolitions, paired with the recombination of lots and over-sized replacement homes, maximizing lot coverage and floor-area ratios. Option 1 provides the simplest adjustment, by prohibiting the combination or recombination of parcels and lots. Option 2 goes a step further by limiting floor area ratios and gross floor areas of single-family dwellings and their accessory structures, by zoning districts. Option 1 and Option 2 could be combined to further restrict development, but Option 3 attempts to meet such a prohibitive measure by utilizing a

1 progressive lot coverage and floor-area ratio to provide some ability to build larger homes on larger lots,
2 while discouraging the recombination of lots.

3 City Council has also directed the Planning Commission to consider striking Chapter 17.40, Planned
4 Development (PD) Overlay Zone section of the Zoning Ordinance, along with any secondary references.

5 The Planning Commission (PC) held a July 2021 work session to discuss the proposed zoning ordinance
6 amendments and options provided regarding the recombination of lots, dimensional limits of floor-area-
7 ratio and lot coverage, as well as, striking the Planned Development chapter. The PC recommended staff
8 bring back text amendments keeping the proposed restrictions to combining lots and striking the PD but
9 decided to keep the FAR and Lot Coverage ratios as the currently stand. The caveat in keeping these
10 dimensional standards was to cap the square footage of all single-family dwellings and their accessory
11 structures, including their accessory dwelling units at 3,500 SF of gross floor area. Further, they asked
12 for language limiting Oceanfront Management structures to fourteen-foot average and eighteen-foot
13 peak building height.

14 The Cannon Beach City Council, Planning Commission and Design Review Board held its initial Code
15 Audit Kick-off Meeting on September 8th, 2021 to discuss the Two-Track process and items to be
16 considered in the expedited Track-One Amendments. The Joint Work Session agreed that the City will
17 move forward with four of the five items, shelving the Oceanfront Building Height discussion for the
18 Track-Two changes and the full Code Audit review.

19 The Planning Commission will hold a Public Hearing on October 28th, 2021 on the subdivision and zoning
20 ordinance amendments, at its regularly scheduled Public Meeting. Public Comment information can be
21 found at the City's website (www.ci.cannon-beach.or.us) and by contacting Cannon Beach Community
22 Development, at City Hall, 163 E. Gower St. PO Box 368, Cannon Beach, OR 97110, 503.436.8054,
23 planning@ci.cannon-beach.or.us.

25 **SECTION 1: LOT LINE ADJUSTMENT RECOMBINATION PROHIBITION**

26 **TITLE 16 SUBDIVISION**

27 **16.04.370 Lot line adjustment.**

28 A. Application shall be made on a form provided by the city.

29 B. The city shall review the request for a lot line adjustment to determine compliance with the
30 standards of this chapter and the zoning ordinance. The city shall approve or deny the request in writing
31 based on the criteria of this chapter and the zoning ordinance within thirty days of submittal of the
32 request.

33 C. A request for a lot line adjustment must meet all of the following criteria:

34 1. An additional lot is not created by the lot line adjustment and the existing parcel
35 reduced in size by the adjustment is not reduced below the minimum lot size established by the
36 approved zoning for that district;

2. By reducing the lot size, the lot or structures on the lot will not be in violation of the zoning ordinance requirements for that district.

3. The adjustment is not a combination or recombination of entire parcels or previously platted lots or portions thereof, except to meet minimum lot size requirements of a district.

D. The applicant may appeal the decision of the city to the planning commission by filing an appeal within fourteen consecutive calendar days of the decision. (Ord. 17-3 § 1; Ord. 95-20 § 1)

SECTION 2: PROGRESSIVE RESIDENTIAL LOT COVERAGE & FLOOR-AREA-RATIO ADJUSTMENTS INCLUDING 3,500 GROSS FLOOR AREA LIMIT

TITLE 17 ZONING

Chapter 17.08 RESIDENTIAL VERY LOW DENSITY (RVL) ZONE

17.08.040 Standards.

In an RVL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be one acre per dwelling unit, except that lots of less than one acre in single, noncontiguous ownership prior to the date of enactment of the ordinance codified in this title are considered buildable subject to the other provisions of this title and the comprehensive plan. Lower density may be required on the basis of geologic hazards, percent of slope, availability of city services and vehicular access and circulation. The planning commission shall review partitions, subdivisions, planned developments and other development proposals under these criteria. The planning commission may authorize the placement of a government or municipal structure necessary for public service on a lot of less than one acre if it finds a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions and Yard Requirements. ~~There are no lot dimension requirements.~~ For lots of more than ten thousand square feet in size, no structure shall be located within twenty feet of a lot line. For lots ~~that are ten thousand square feet in size or less~~ than ten thousand square feet in size: a front yard shall be at least fifteen feet; a side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet; and a rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed ~~fifty percent~~ the percentage found in Table One.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed ~~0.5~~ the percentage found in Table One, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	FAR
Less than 6499	0.5	0.6
6500-8999	0.4	0.5
9000-13999	0.3	0.4
14000+	0.2	0.3

Table 1.

E. Positioning of Structures for Future Subdivision. In areas where the future intention of the property or lot is further partitioning or subdivision, the planning commission shall, where practicable, require that structures be located so as to facilitate the future division of the land in a manner that accommodates smaller lot sizes and the extension of streets and utilities.

F. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

G. Signs. As allowed by Chapter 17.56.

H. Parking. As required by Section 17.78.020.

I. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

J. Geologic or Soils Engineering Study. As required by Chapter 17.50.

K. Zone Changes. Upon request of property owners, or their representatives, the planning commission may consider the change of an area of the RVL zone to another zone in order to obtain more intensive usage or higher densities where it is demonstrated by the applicant that:

1. A favorable geologic investigation indicates that the area will support more intensive development;

2. City services are available, or will be provided, including adequate water pressure, sewer and water system capacity and street width;

3. Traffic circulation patterns will not place a burden on neighborhood streets;

4. The county planning commission has been given adequate opportunity to review the proposal and provide comment to the city.

L. Claims for Compensation Under ORS 197.352. The standards of subsections A through K of this section, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352.

M. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.90.190 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 § 15; Ord. 06-3 § 2; Ord. 00-4 § 1; Ord. 92-11 §§ 9, 10; Ord. 90-3 § 2; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.010)(3))

Chapter 17.10 RESIDENTIAL LOWER DENSITY (RL) ZONE

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least seventy-five feet.

2. Lot Depth. Lot depth shall be at least ninety feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed ~~fifty percent~~, the percentage found in Table One.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use on a lot ~~of six thousand square feet or more shall not exceed 0.5. The maximum gross floor area for a permitted or conditional use on a lot of more than five thousand square feet, but less than six thousand square feet, shall not exceed three thousand square feet. The floor area ratio for a permitted or conditional use on a lot with an area of five thousand square feet or less shall not exceed 0.6.~~ shall not exceed the percentage found in Table One, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	FAR
Less than 6499	0.5	0.6
6500-8999	0.4	0.5
9000-13999	0.3	0.4
14000+	0.2	0.3

Table 1.

Chapter 17.12 RESIDENTIAL MODERATE DENSITY (R1) ZONE

17.12.040 Standards.

In an RI zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to the standards of Section 17.82.020. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed ~~fifty percent~~, the percentage found in Table Two.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed ~~0.6~~, the percentage found in Table Two, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	1stDUFAR	2ndDUFAR
Less than 6499	0.5	0.6	0.7
6500-8999	0.4	0.5	0.6
9000-13999	0.3	0.4	0.5
14000+	0.2	0.3	0.4

Table 2.

Chapter 17.14 RESIDENTIAL MEDIUM DENSITY (R2) ZONE

17.14.040 Standards.

In an R2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to Section 17.82.020. The minimum lot

size for a single-family dwelling shall be five thousand square feet. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed ~~fifty percent~~ the percentage found in Table Two.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed ~~0.6~~ the percentage found in Table Two, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	1stDUFAR	2ndDUFAR
Less than 6499	0.5	0.6	0.7
6500-8999	0.4	0.5	0.6
9000-13999	0.3	0.4	0.5
14000+	0.2	0.3	0.4

Table 2.

Chapter 17.16 RESIDENTIAL HIGH DENSITY (R3) ZONE

17.16.040 Standards.

In an R3 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to the standards of Section 17.82.020. The minimum lot size for a two-family dwelling shall be five thousand square feet. The density of limited triplexes shall be in conformance with Section 17.90.090. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred

square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77. The maximum density of motels and assisted living facilities shall be one unit per one thousand square feet of site area. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed ~~fifty percent.~~ the percentage found in Table Three.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, ~~other than a multifamily dwelling or assisted living facility,~~ shall not exceed ~~0.6.~~ the percentage found in Table Three, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	1stDUFAR	2ndDU+FAR
Less than 6499	0.5	0.6	0.7
6500-8999	0.4	0.5	0.6
9000-13999	0.3	0.4	0.5
14000+	0.2	0.3	0.4

Table 3.

Chapter 17.18 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING (RAM) ZONE

17.18.040 Standards.

In an RAM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. The minimum lot size for a single-family dwelling, manufactured dwelling, modular home and a duplex shall be five thousand square feet. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77. The maximum density of assisted living facilities shall be one residential unit per one thousand square feet of site area. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed ~~fifty percent.~~ the percentage found in Table Three.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, ~~other than a multifamily dwelling or assisted living facility,~~ shall not exceed ~~0.6.~~ the percentage found in Table Three, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	1stDUFAR	2ndDU+FAR
Less than 6499	0.5	0.6	0.7
6500-8999	0.4	0.5	0.6
9000-13999	0.3	0.4	0.5
14000+	0.2	0.3	0.4

Table 3.

Chapter 17.20 RESIDENTIAL MOTEL (RM) ZONE

17.20.040 Standards.

In an RM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots less than five thousand square feet is subject to the standards of Section 17.82.020. The minimum lot size for a two-family dwelling shall be five thousand square feet. The density of limited triplexes shall be in conformance with Section 17.90.090. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77. The maximum density of motels and assisted living facilities shall be one unit per one thousand square feet of site area. The density of a motel project that includes motel units and dwelling units, other than a manager's unit, shall be cumulative. Example: a three unit motel in conjunction with a three-unit multifamily dwelling requires ten thousand square feet for the multifamily dwelling and three thousand square feet for the motel units. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 16.04.310(A).

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Motel Yard Requirements. Yard requirements shall not apply to motels or hotels, except as to yards abutting the ocean shore and clear vision area requirements.

7. Yard Abutting the Ocean Shore. For lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a single-family dwelling, modular home or duplex shall not exceed ~~fifty percent~~ the percentage found in Table Three.

D. Floor Area Ratio. The floor area ratio for a single-family dwelling, modular home or duplex shall not exceed ~~0.6~~ the percentage found in Table Three, except that no single-family dwelling shall exceed 3,500 square feet in gross floor area.

LOT SQFT	Lot Coverage	1stDUFAR	2ndDU+FAR
Less than 6499	0.5	0.6	0.7
6500-8999	0.4	0.5	0.6
9000-13999	0.3	0.4	0.5

14000+	0.2	0.3	0.4
--------	-----	-----	-----

1 Table 3.

2

- 1 **NOTE: 1st DUFAR means the first dwelling unit on a lot's floor area ratio, 2ndDUFAR+ means the**
 2 **second dwelling unit or more on a lot's floor area ratio.**

3 **REFERENCE TABLE:**

LOT COVERAGE								FAR		FASQFT	
SQFT	0.5	0.45	0.4	0.35	0.3	0.25	0.2	1DU	2DU	1DU	2DU
5000	2500	2250	2000	1750	1500	1250	1000	0.6	0.7	3000	3500
5500	2750	2475	2200	1925	1650	1375	1100	0.6	0.7	3300	3850
6000	3000	2700	2400	2100	1800	1500	1200	0.6	0.7	3600	4200
6500	3250	2925	2600	2275	1950	1625	1300	0.5	0.6	3250	3900
7000	3500	3150	2800	2450	2100	1750	1400	0.5	0.6	3500	4200
7500	3750	3375	3000	2625	2250	1875	1500	0.5	0.6	3750	4500
8000	4000	3600	3200	2800	2400	2000	1600	0.5	0.6	4000	4800
8500	4250	3825	3400	2975	2550	2125	1700	0.5	0.6	4250	5100
9000	4500	4050	3600	3150	2700	2250	1800	0.4	0.5	3600	4500
9500	4750	4275	3800	3325	2850	2375	1900	0.4	0.5	3800	4750
10000	5000	4500	4000	3500	3000	2500	2000	0.4	0.5	4000	5000
10500	5250	4725	4200	3675	3150	2625	2100	0.4	0.5	4200	5250
11000	5500	4950	4400	3850	3300	2750	2200	0.4	0.5	4400	5500
11500	5750	5175	4600	4025	3450	2875	2300	0.4	0.5	4600	5750
12000	6000	5400	4800	4200	3600	3000	2400	0.4	0.5	4800	6000
12500	6250	5625	5000	4375	3750	3125	2500	0.4	0.5	5000	6250
13000	6500	5850	5200	4550	3900	3250	2600	0.4	0.5	5200	6500
13500	6750	6075	5400	4725	4050	3375	2700	0.4	0.5	5400	6750
14000	7000	6300	5600	4900	4200	3500	2800	0.3	0.4	4200	5600
14500	7250	6525	5800	5075	4350	3625	2900	0.3	0.4	4350	5800
15000	7500	6750	6000	5250	4500	3750	3000	0.3	0.4	4500	6000
20000	10000	9000	8000	7000	6000	5000	4000	0.3	0.4	5000	8000
25000	12500	11250	10000	8750	7500	6250	5000	0.3	0.4	5000	10000

4

1 **SECTION 3:**

2 **REPEAL CHAPTER 17.40 PLANNED DEVELOPMENT (PD) OVERLAY ZONE**

3 ~~**Chapter 17.40 PLANNED DEVELOPMENT (PD) OVERLAY ZONE**~~

4 ~~**17.40.010 Purpose.**~~

5 ~~—A. It is the intent of this chapter to encourage appropriate and orderly development of tracts of land~~
6 ~~sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the~~
7 ~~application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision. In~~
8 ~~this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses; the~~
9 ~~economy of shared services and facilities; compatibility of surrounding areas; and the creation of~~
10 ~~attractive, healthful, efficient and stable environments for living, shopping or working.~~

11 ~~-~~

12 ~~—B. Specifically, it is the purpose of this chapter to promote and encourage the flexibility of design in~~
13 ~~the placement and uses of buildings and open space, streets and off-street parking areas, and to more~~
14 ~~efficiently utilize the potential of sites characterized by special features of geography, topography, size~~
15 ~~or shape.~~

16 ~~—C. It is not the intention of this chapter to be a bypass of regular zoning provisions solely to allow~~
17 ~~increased densities, nor is it a means of maximizing densities on parcels of land which have unbuildable~~
18 ~~or unusable areas. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170))~~

19 ~~-~~

20 ~~**17.40.020 Standards and requirements—Generally.**~~

21 ~~—A. Size.~~

22 ~~—1. Planned residential development may be established in residential zones on parcels of land which~~
23 ~~are suitable for and of sufficient size to be planned and developed in a manner consistent with the~~
24 ~~purposes and objectives of the comprehensive plan and this title. The site shall include not less than~~
25 ~~three acres of contiguous land.~~

26 ~~—2. Where the development involves partitioning, subdivision or resubdivision, or condominium~~
27 ~~ownership of land and buildings, the requirements of the land division ordinance shall be adhered to~~
28 ~~concurrently.~~

29 ~~—B. Ownership.~~

30 ~~—1. The tract of land or tracts of land included in a proposed planned development must be in one~~
31 ~~ownership or control or the subject of a joint application by the owners of all the property included. The~~
32 ~~holder of a written option to purchase shall be deemed the owner of such land for the purposes of this~~
33 ~~section.~~

34 ~~—2. Unless otherwise provided as a condition for approval of a planned development permit, the~~
35 ~~permittee may divide and transfer units of any development. The transferee shall use and maintain each~~
36 ~~such unit in strict conformance with the approved permit and development plan.~~

37 ~~—C. Professional Design.~~

38 ~~—1. The applicant for all proposed planned developments shall certify that the talents of the following~~
39 ~~professionals will be utilized in the planning process for development: (a) an architect licensed by the~~

1 state, (b) a landscape architect licensed by the state, (c) a registered engineer and land surveyor licensed
2 by the state. The planning commission may waive this requirement provided the applicant can show the
3 equivalent and acceptable design talents have been utilized in the planning process.

4 —2. One of the professional consultants chosen by the applicant from the above group shall be
5 designated to be responsible for conferring with the city staff with respect to the concept and details of
6 the plan.

7 —3. The selection of the professional coordinator of the design team will not limit the owner or the
8 developer in consulting with the city staff or the commission.

9 —D. General Information. The planning process for development shall include:

10 —1. Plot plan of land in area to be developed indicating location of adjacent streets and all private
11 rights-of-way existing and proposed;

12 —2. A legal boundary survey;

13 —3. Existing and proposed finish grading of the property with all drainage features;

14 —4. Location of all proposed structures, together with the usage to be contained therein and
15 approximate location of all entrances thereto and height and gross floor area thereof;

16 —5. Vehicular and pedestrian circulation features within the site and on adjacent streets and alleys;

17 —6. The extent, location, arrangement and proposed improvements of all off-street parking and
18 loading facilities;

19 —7. The extent, location, arrangement and proposed improvements of all open space, landscaping,
20 fences and walls;

21 —8. Architectural drawings and sketches demonstrating the planning and character of the proposed
22 development;

23 —9. The number of units proposed;

24 —10. Contour lines at two-foot intervals.

25 —E. Permitted Buildings and Uses. The following buildings and uses may be permitted as provided in
26 this subsection. Buildings and uses may be permitted either singly or in combination, provided the
27 overall density of the planned development does not exceed the density of the parent zone:

28 —1. Single family dwellings including detached, attached or semi-attached units, row houses, atrium or
29 patio houses; provided each has its own separate plot;

30 —2. Duplexes;

31 —3. Multiple family dwellings;

32 —4. Accessory buildings and uses;

33 —5. Condominiums;

34 —6. Buildings or uses listed as permitted outright or conditionally in the parent zone in which the
35 planned development is located. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(1))

36 -

37 **17.40.030 Development standards.**

~~—In addition to, or as a greater requirement to the regulations normally found in the zone, the following guidelines and requirements apply to all developments for which a planned development permit is required:~~

~~—A. Outdoor Living Area Requirements. In all residential developments, a minimum of forty percent of the total area shall be devoted to outdoor living area. Of this area, twenty five percent of the outdoor living area may be utilized privately by individual owners or users of the planned development; a minimum of seventy five percent of this area shall be common or shared outdoor living area.~~

~~—B. Height Requirements. The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the commission may further limit heights:~~

~~—1. Around the site boundaries; and/or~~

~~—2. To protect scenic vistas from encroachments.~~

~~—C. Underground Utilities. In any development which is primarily designed for or occupied by dwellings, all electric and telephone facilities, fire alarm conduits, street light wiring and other wiring conduits and similar facilities shall be placed underground by the developer.~~

~~—D. Density Requirements.~~

~~—1. The density of a planned development shall not exceed the density of the parent zone, however, more restrictive regulations may be prescribed as a condition of a planned development permit. When calculating density, the net area is used — the total area excluding street dedications.~~

~~—2. Areas of public or semi-public uses (not public ownership) may be included in calculating allowable density.~~

~~—E. Distribution of Facilities Without Reference to Lot Lines. Individual buildings, accessory buildings, off-street parking and loading facilities, open space and landscaping and screening may be located without reference to lot lines, save the boundary lines of the development, except that required parking spaces serving residential uses shall be located within two hundred feet of the building containing the living units served.~~

~~—F. Waiver of Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided, the minimum lot area, width and frontage, height and yard requirements otherwise applying in the zone shall not dictate the strict guidelines for development of the planned development, but shall serve to inform the designers of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood.~~

~~—G. Dedication and Maintenance of Facilities. The planning commission may, as a condition of approval for any development for which a planned development permit is required, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:~~

~~—1. Recreation Facilities. The commission or council, as the case may be, may require that suitable area for parks or playgrounds be set aside, improved or permanently reserved for the owners, residents, employees or patrons of the development.~~

~~—2. Outdoor Living Area. Whenever commonly held outdoor living area is provided, the commission or council shall require that an association of owners or tenants be created into a nonprofit corporation under the laws of the State of Oregon, which shall adopt such articles of incorporation and by laws and adopt and impose such declaration of covenants and restrictions on such outdoor living areas and/or common areas that are acceptable to the commission. Such association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake~~

1 other functions. It shall be created in such a manner that owners of property shall automatically be
2 members and shall be subject to assessments levied to maintain such outdoor living area for the
3 purposes intended. The period of existence of such association shall be not less than twenty years, and
4 it shall continue thereafter until a majority vote of the members shall terminate it.

5 —3. Streets. The commission or council may require that the right-of-way width of such other streets
6 necessary to the proper development of adjacent properties be dedicated to the city.

7 —4. Easements. Easements necessary to the orderly extension of public utilities may be required as a
8 condition of approval. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(2))

9 10 **17.40.040 Planned development procedures.**

11 —There shall be a three-stage review process for planned developments consisting of pre-application
12 (stage one), preliminary approval (stage two) and final approval (stage three).

13 —A. Pre-Application (Stage One). The owner or authorized agent shall submit to the planning
14 department the following information:

15 —1. A schematic drawing, drawn to a minimum scale of one inch equals one hundred feet, showing the
16 general relationship contemplated among all public and private uses and existing physical features;

17 —2. A written statement setting forth the source of water supply, method of sewage disposal, means
18 of drainage, dwelling types, nonresidential uses, lot layout, public and private access, height of
19 structures, lighting, landscaped areas and provisions for maintenance of landscaped areas, areas to be
20 devoted to various uses and housing densities per net acre and per gross acre contemplated by the
21 applicant.

22 —The developer and the city staff shall meet together and determine whether the requirements of this
23 chapter have been complied with. If there is disagreement on this issue, the applicant, by request, or the
24 staff may take this pre-application information to the commission for their determination of whether
25 this site qualifies for the contemplated planned development. The professional coordinator shall be
26 responsible for presenting the developer's plan in all of the broad professional aspects to the planning
27 department. If the staff and the applicant reach a satisfactory agreement, the applicant may proceed to
28 prepare the data for stage two, preliminary approval.

29 —B. Preliminary Approval (Stage Two).

30 —1. Applications for planned developments, preliminary approval, shall be made by the owner of all
31 affected property, or by the authorized agent, and shall be filed on a form prescribed by the city.
32 Applications shall be accompanied by a fee prescribed by the city and accompanied by the following
33 information:

34 —a. Ten copies of a preliminary development plan of the entire development, showing the following
35 features:

36 —i. Streets, driveways, off-street parking and loading areas;

37 —ii. Location and maximum dimensions of structures, including activities and number of living units;

38 —iii. Major landscaping features;

39 —iv. Relevant operational data, drawings and/or elevations clearly establishing the scale, character and
40 relationship of buildings, streets and open space.

41 —v. Maps and information on the surrounding area within four hundred feet of the development.

~~—b. A boundary survey or a certified boundary description by a registered surveyor, plus contour information, shall also be submitted. The elevation of all points used to determine contours shall be indicated on the preliminary plan and such points shall be given to true elevation above mean sea level as determined by the city engineer. The base data used shall be clearly indicated and shall be compatible with city datum, if bench marks are not adjacent. Two foot contour intervals are required.~~

~~—c. All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact; and the proposed ownership (private, commonly held, public) of each feature shall be shown on the preliminary plan.~~

~~—d. A tabulation of the land area to be devoted to open space, streets or other uses, and a calculation of the average residential density per net acre;~~

~~—e. A development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion;~~

~~—f. If it is proposed that the final development plan will be executed in stages, a schedule thereof will be required.~~

~~—2. An application for permit preliminary approval (stage two) shall be submitted to the planning commission. A public hearing as specified in Chapter 17.88 shall be held on each such application. After such hearing, the commission shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050, and to the planned development regulations, and may approve or disapprove the application and the accompanying preliminary development plan, or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. In doing so, the commission may, in its discretion, authorize submission of the final development plan in stages corresponding to the units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and staged development schedule.~~

~~—3. The planning commission's decision on an application for preliminary approval (stage two) may be appealed to the City Council pursuant to Section 17.88.140.~~

~~—C. Final Approval (Stage Three).~~

~~—1. Within one year after approval or modified approval of a preliminary development plan, the applicant shall file with the planning department a final plan for the entire development or, when submission in stages has been authorized, for the first unit of development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan, plus the following:~~

~~—a. The location of water, sewerage and drainage facilities;~~

~~—b. Detailed building and landscaping plans and elevations. Elevations shall be to scale, and shall show four sides of each proposed building, with at least one elevation of the street-facing side of each building visible from a public street. For lots or buildings on slopes of twenty percent or greater, at least one elevation shall be perpendicular to the slope.~~

~~—c. The character and location of signs;~~

~~—d. Plans for street improvements and grading or earth moving plans.~~

~~—e. Copies of the legal documents required by the commission for dedication or reservation of public facilities, or for the creation of a nonprofit home owners association.~~

1 —The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of
2 the development.

3 —2. The public works director shall review a submission for final approval (stage three) and prepare a
4 report addressing the proposal's public improvements, including streets, sewers, drainage and water.
5 The public works director's report shall be submitted to the planning commission at least seven days
6 prior to the commission's public hearing on the final plan.

7 —3. Upon receipt of the final development plan the planning commission shall conduct a public
8 hearing in accordance with Chapter 17.78. The commission shall examine such plan and determine:

9 —a. Whether it conforms to all applicable criteria and standards and

10 —b. Whether it conforms in all substantial respects to the stage two approval.

11 —The planning commission may require such changes in the proposed development, or impose such
12 conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria
13 and standards. In so doing, the commission may permit the applicant to revise the plan within thirty
14 days. Any conditions of approval or changes to the proposed development plan required by the planning
15 commission may be appealed by any party of record to the city council.

16 —4. The planning commission's decision may be appealed to the city council pursuant to Section
17 17.88.140.

18 —5. Permit Expiration. Final plan approval (stage three) shall be void after one year unless a building
19 permit has been issued. However, when requested, the planning commission, at a public hearing
20 conducted pursuant to Chapter 17.88, may extend authorization for an additional period not to exceed
21 one year. Only one extension may be granted. (Ord. 17-3 § 1; Ord. 92-11 §§ 45, 46; Ord. 79-4 § 1
22 (3.170)(3))

23 -

24 **17.40.050 Permit criteria.**

25 —A planned development permit may be granted by the planning commission only if it is found that the
26 development conforms to all the following criteria, as well as to the planned development regulations:

27 —A. That the location, design, size and uses are consistent with the comprehensive plan, development
28 map or ordinance adopted by the council;

29 —B. That the location, design, size and uses are such that the development can be well integrated with
30 its surroundings, and in the case of a departure in character from surrounding uses, that the location
31 and design will adequately reduce the impact of the development;

32 —C. That the location, design, size and uses are such that traffic generated by the development, except
33 in single-family density, can be accommodated safely and without congestion on existing or planned
34 arterial or collector streets and will, in the case of commercial developments, avoid traversing local
35 streets;

36 —D. That the location, design, size and uses are such that the residents or establishments to be
37 accommodated will be adequately served by existing or planned facilities and services;

38 —E. That the location, design, size and uses will result in an attractive, healthful, efficient and stable
39 environment for living, shopping or working. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(4))

40 -

41 **17.40.060 Mapping.**

1 ~~—Whenever a planned development permit has been granted, and so long as the permit is in effect, the~~
2 ~~boundary of the planned development shall be indicated on the land use and zoning map of the city as a~~
3 ~~sub-district “PD.” (Ord. 17-3 § 1; Ord. 92-11 § 47; Ord. 79-4 § 1 (3.170)(5))~~

4 -

5 **17.40.070 Limitation on resubmission.**

6 ~~Whenever an application for a planned development permit has been denied, no application for the~~
7 ~~same plan or any portion thereof shall be filed by the same applicant within six months after the date of~~
8 ~~denial. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(6))~~

9 -

10 **17.40.080 Adherence to approved plan—Modifications.**

11 ~~—A. The applicant shall agree in writing to be bound, for him or herself; and for any and all successors~~
12 ~~in interest, by the conditions prescribed for approval of a development. The approved final plan and~~
13 ~~staged development schedule shall control the issuance of all building permits and shall restrict the~~
14 ~~nature, location and design of all uses. Any changes in an approved preliminary or final development~~
15 ~~plan shall be reviewed by the planning commission in the same manner as the original application and~~
16 ~~shall be subject to the same procedural requirements.~~

17 ~~—B. A performance bond shall be required, in an amount to be determined by the planning~~
18 ~~commission to ensure that a development proposal is completed as approved and within the time limits~~
19 ~~agreed to. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(7))~~

20 -

21 **17.40.090 Violation—Permit revocation.**

22 ~~—Failure to comply with the final development plan, any condition of approval prescribed under Section~~
23 ~~17.40.040, or to comply with the staged development schedule, shall constitute a violation of this~~
24 ~~chapter. In this event, the city council may, after notice and hearing, revoke the planned development~~
25 ~~permit. (Ord. 17-3 § 1; Ord. 79-4 § 1 (3.170)(8))~~

26 -

27 **17.40.100 Establishment of the planned development overlay zone.**

28 ~~—A. The planned development (PD) overlay zone designation may be placed on a property or group of~~
29 ~~properties following the requirements of Chapter 17.86, Amendments.~~

30 ~~—B. An application for a zoning map amendment to place the planned development (PD) overlay zone~~
31 ~~designation on a property or group of properties may be made either prior to, or concurrent with, an~~
32 ~~application for preliminary approval (stage two).~~

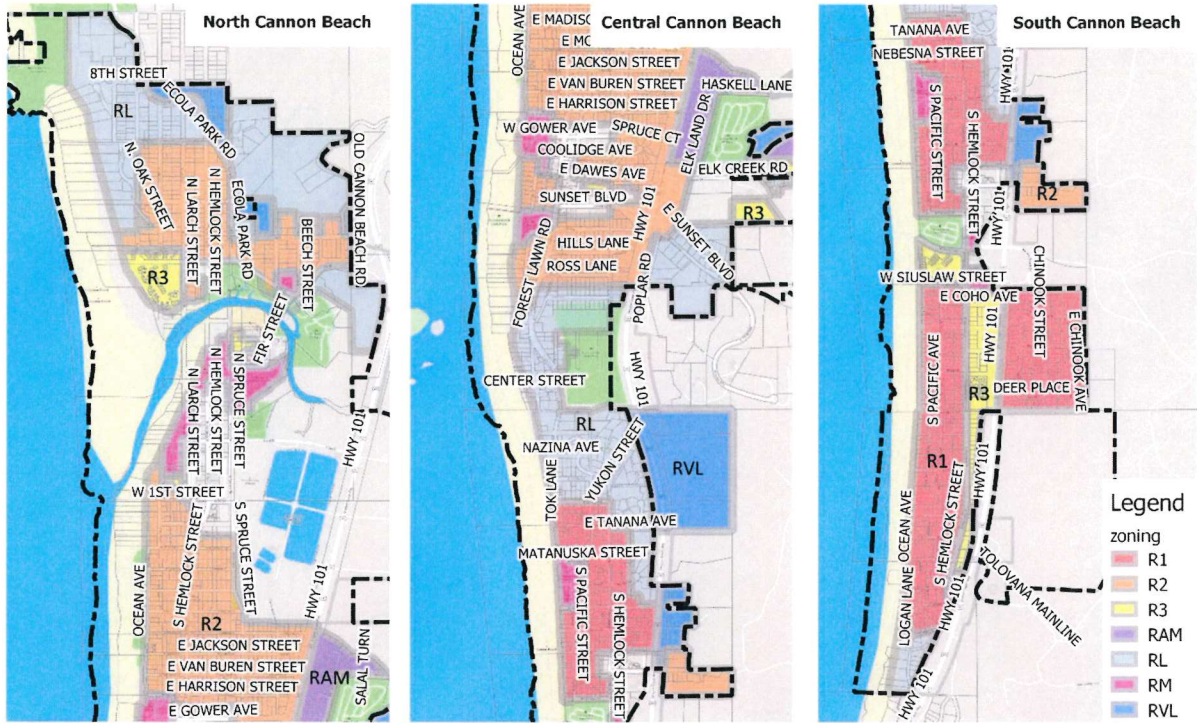
33 ~~—C. An application package consisting of concurrent requests for a zoning map amendment to place~~
34 ~~the planned development (PD) overlay zone designation on a property or group of properties, and for~~
35 ~~preliminary approval (stage two) requires final approval by the city council. The planning commission’s~~
36 ~~action on a combined zone map amendment and preliminary approval (stage two) application package~~
37 ~~is a recommendation to the city council. (Ord. 17-3 § 1)~~

38 -

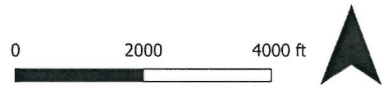
1

2

1 REFERENCE ZONING MAP



Residential Zoning Districts



2

Jeffrey Adams

From: Claudia Gray <claudiag63@comcast.net>
Sent: Tuesday, September 07, 2021 5:29 PM
To: City Hall Group; Jeffrey Adams; Mike Benefield; Nancy McCarthy; Brandon Ogilvie; Robin Risley; Sam Steidel
Subject: proposal fast-track

TO: Cannon Beach City Council

Currently you are considering several prohibitions on building in Cannon Beach, and as long-time (44 years) homeowners, we have some concerns about the so-called "fast tracking" of at least one of these items.

The proposed prohibition of building one house on two lots makes sense to us, as does the limitation on size. Our concern is with the proposed height limit of 18 feet. If such a proposal were to take effect, we could not rebuild our home if it were to burn down. Such a provision has huge implications and would prohibit the rebuilding of virtually every house along Ocean Avenue, including those which are 70-80 years old and are considered part of the "village esthetic."

This is obviously a very controversial proposal, one with wide-ranging consequences. Please do not "fast-track" this item, but instead allow time for testimony and input from homeowners, and careful consideration of all viewpoints.

Michael and Claudia Gray
587 Ocean Avenue
Cannon Beach

September 7, 2021

cityhall@ci.cannon-beach.or.us
steidel@ci.cannon-beach.or.us
benefield@ci.cannon-beach.or.us
nmccarthy@ci.cannon-beach.or.us
ogilvie@ci.cannon-beach.or.us
risley@ci.cannon-beach.or.us
adams@ci.cannon-beach.or.us

Dear Cannon Beach City Council,

We are writing to ask that you remove the proposed 18-foot height limitation for ocean front property from the council's agenda. If you wish to continue to consider the height limitation, we ask that you provide meaningful opportunity for study and comment and, at a minimum, remove this item from the fast track process.

We understand the concern voiced by the council is: "the threat of residential development that is combining lots to develop larger and larger homes that are not in keeping with the village aesthetic." The prohibition on combining lots, or the overall square footage limitation, may better further the council's goal than a new height limitation. The proposed height limitation would prohibit the rebuilding of some of the village's oldest ocean front cottages, 195 West Madison and 631 Ocean, which are both are two-story homes with 24 to 26-foot height. We do not understand how the 18-foot height limitation furthers the council's stated goal. If passed it would prohibit reconstruction of these homes, and other such "non-conforming" homes, in the event of a fire. The same homes the council is stating it wishes to maintain.

Furthermore, zoning modifications requires a balancing between all interests. Where an issue is controversial, it should not be fast tracked. The city's planner said as much to the planning commission in their July 22, 2021 meeting.

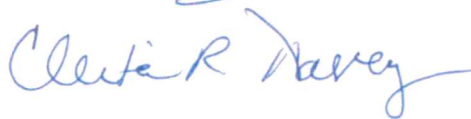
We ask that that the council remove the proposed height limitation for ocean front properties or, at a minimum, remove this agenda item from the fast track process.

Sincerely,

Eric Harvey



Cleita Harvey



Address: 763 Ocean Avenue, Cannon Beach, OR

From: Jill Van Blarcom <jillvanblarcom@yahoo.com>
Sent: Tuesday, September 07, 2021 8:33 PM
To: City Hall Group; Sam Steidel; Mike Benefield; Nancy McCarthy; Brandon Ogilvie; Robin Risley; Jeffrey Adams
Cc: Jill Van Blarcom; Scott Van Blarcom; Jody Teetz
Subject: Proposed 18-foot height limitation for ocean front property

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Cannon Beach City Council,

We understand several restrictions on building in Cannon Beach are currently under consideration by the City Council. As homeowners in Cannon Beach for over 75 years, we are writing to express some concerns about one of the building code revisions, and the process by which it will be adopted.

The proposed building height limit of 18 feet for ocean front property is unprecedented, and contrary to the building esthetic that has been in place since the presidential street neighborhood was developed. Although our house is an original structure, if such a proposal were to take effect, we could not rebuild our home should it burn down, or otherwise require structural restoration due to natural disaster or other casualty. Such a provision has huge implications, and would prohibit the rebuilding of virtually every house along Ocean Avenue.

We also understand this proposal is on an accelerated timeline, with building code revisions to be in place by year-end. A proposal with such wide-ranging consequences merits adequate time for testimony and input from homeowners, and careful consideration of all viewpoints.

As owners of a house that is nearly 100 years old, we are strong proponents of keeping a "village esthetic" within Cannon Beach. To that end, we respectfully request the proposed building code revisions not be fast-tracked.

Thank you for your consideration.

Most respectfully,

Jody Teetz
Jill and Scott Van Blarcom

Address:
195 W. Madison
Cannon Beach

Jeffrey Adams

From: PETER MUSSER <pmmusser@comcast.net>
Sent: Wednesday, September 08, 2021 11:35 AM
To: Sam Steidel; Brandon Ogilvie; Mike Benefield; Nancy McCarthy; Robin Risley
Cc: Jeffrey Adams; City Hall Group
Subject: Consideration of Building Prohibitions

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Cannon Beach City Council,

We have been coming to Cannon Beach for over 40 years and have owned a home on Ocean Avenue since 2008. Currently you are considering several prohibitions on building in Cannon Beach, and we have some serious concerns about the so-called "fast tracking" of one of these proposals. The proposed prohibition of building one (large) house on two lots makes sense to us, as does the square footage limitation. Our concern is with the proposed high limit of 18 feet. Such a proposal has huge implications and would prohibit the rebuilding of nearly every house on Ocean Avenue in the case of a total loss fire/damage. This would include many homes which are 70-80 years old and are considered an essential part of the "village aesthetic."

This is obviously a very controversial proposal, one with wide-ranging consequences. Please do not "fast track" this proposal, and allow time for testimony and input from homeowners, and careful consideration of all viewpoints.

Sincerely,
Peter and Tamara Musser

From: [SABRINA and GREGG BARTON](#)
To: [City Hall Group](#); [Sam Steidel](#); [Mike Benefield](#); [Nancy McCarthy](#); [Brandon Ogilvie](#); [Robin Risley](#); [Jeffrey Adams](#)
Subject: 18-Foot Height Limitation for Ocean Front Property
Date: Monday, September 6, 2021 12:52:14 PM

Dear Cannon Beach City Council,

We are writing to ask that you remove the proposed 18-foot height limitation for ocean front property from the fast track process. If you wish to consider the height limitation, we ask that you provide meaningful opportunity for study and comment. We understand the concern voiced

by the council is “the threat of residential development that is combining lots to develop larger and larger homes that are not in keeping with the village aesthetic.” The prohibition on combining lots, or the overall square footage limitation, may further this goal. However, some of

the oldest ocean front cottages, at 195 West Madison and next door at 631 Ocean, are two-story

24 to 26-foot-high homes with 1700 and 1900 square feet respectively. How does the 18-foot height limitation further the council’s goal? For example, it would prohibit reconstruction of such non-conforming homes, the homes the council claims it wishes to preserve or maintain, after a fire.

Furthermore, good planning dictates that planners and others involved in developing plans and regulations understand the general economic and other consequences of their actions. Zoning requires a balancing between different interests. Where an issue is controversial, it should not be fast tracked. The city’s planner said so much to the planning commission in their July 22, 2021, meeting. We ask that the council remove the proposed height limitation for ocean front property from the fast track process.

Gregg and Sabrina Barton

P.O. Box 1448

Cannon Beach, OR 97110

From: [Browne, Maureen](#)
To: [City Hall Group](#); [Sam Steidel](#); [Mike Benefield](#); [Nancy McCarthy](#); [Brandon Ogilvie](#); [Robin Risley](#); [dams@ci.cannon-beach.or.us](#)
Cc: [Browne, Maureen](#); [mkbyars@gmail.com](#)
Subject: Objection to Fast Track of Height Limitation Proposal
Date: Tuesday, September 7, 2021 9:25:34 AM
Attachments: [Height Limit CBCC.pdf](#)

Please see attached letter to be considered at the September 8th City Council meeting.

Regards,

Mo Browne

631 Ocean Ave.

Cannon Beach, OR 97110

310.385.2384

Maureen F. Browne

Pronouns: She/Her/Hers

Covington & Burling LLP

One CityCenter, 850 Tenth Street, NW

Washington, DC 20001-4956

T +1 202 662 5038 | mbrowne@cov.com

www.cov.com

COVINGTON

Maureen F. Browne
Michael K. Byars, Jr.
5510 Cedar Parkway
Chevy Chase, MD 20815

7 September 2021

cityhall@ci.cannon-beach.or.us
steidel@ci.cannon-beach.or.us
benefield@ci.cannon-beach.or.us
nmccarthy@ci.cannon-beach.or.us
ogilvie@ci.cannon-beach.or.us
risley@ci.cannon-beach.or.us
adams@ci.cannon-beach.or.us

Dear Cannon Beach City Council,

We are writing to ask that you remove the proposed 18-foot height limitation for ocean front property from the fast track process. If you wish to consider the height limitation, we ask that you provide meaningful opportunity for study and comment. We understand the concern voiced by the council is “the threat of residential development that is combining lots to develop larger and larger homes that are not in keeping with the village aesthetic.” The prohibition on combining lots, or the overall square footage limitation, may further this goal. However, two of the oldest ocean front cottages, at 195 West Madison and my home next door at 631 Ocean, are two-story 24 to 26-foot-high homes with 1700 and 1900 square feet respectively. How does the 18-foot height limitation further the council’s goal? For example, it would prohibit reconstruction of such non-conforming homes, the homes the council wishes to maintain, after a fire. Furthermore, good planning dictates that planners and others involved in developing plans and regulations understand the general economic and other consequences of their actions. Zoning requires a balancing between different interests. Where an issue is controversial, it should not be fast tracked. The city’s planner said so much to the planning commission in their July 22, 2021, meeting. We ask that the council remove the proposed height limitation for ocean front property from the fast track process.

Regards,

Maureen F. Browne and Michael K. Byars, Jr.

631 Ocean Ave., Cannon Beach, OR 97110

To: Cannon Beach City Council & Planning Commission
10-8-2021

Currently you are undertaking revisions to keep the quality of life good for community residents. Obviously, you get lots of information from residents throughout the year regarding problems with near neighbors that affect their joy of home ownership. It is a very daunting task and I commend your hard work and deliberations.

The lots in Haystack Heights are an average of 50X100 feet. They have a setback of five feet on the sides. I urge you to get a tape measure and set it at ten feet. At this distance you can hear soft talking. If you want to open a window you will hear conversations, dogs barking, music and television as if it is in the room with you. There is not room or light for a tree planting, or feasible screening. I believe this is a quality of life issue. Have you sat ten feet from someone who was talking loudly on their cell phone?

We purchased our lot in 1991. In creating this development, water runoff pipes were placed 12-20 feet down in existing waterways and then covered with fill from the Silverpoint slide. One of these pipes (we learned only after framing our house) goes under the SW corner of our house. It proceeds diagonally across the lot to the west of us, making that lot largely unbuildable. We had to get a title restriction to continue building our house that says if it is damaged by that pipe collapsing, it is not insured. It was that or claim bankruptcy and having no home. This was when Dave was Chief of Police. Life is full of surprises.

Some years ago the city asked for a right of way to re-route the water run off pipes and that pipe now runs along the east side of our house. The city attempted to fill the old pipes and capped them, but would not give us a letter stating they were filled as they didn't want to be liable for any damage from their collapse.

When our longtime friend and neighbor, Bill Wallace, passed, his daughters lowered the price of the lot west of us, to allow us to purchase half of it (originally we'd proposed this to Bill & Donna and the cost in 1991 was \$6,500 for us, currently, \$50,000!) We do not want to build on this land, but wanted to not be further from neighbors and also not have the heavy equipment on the lot, building a home, which could cause damage to our house.

Sorry for the long 'history', but I love the space we now have between us and our neighbors, who are wonderful neighbors. We are wanting to make the lot 75 feet across legally so that this beautiful, natural piece of land can remain as it is. I believe the further amendments to building size and footprint restrictions would address the building of a larger house or accessory buildings in the future.

A town is beautified and made more livable with open spaces. The additional 25 feet, on both sides, is used for grassy play areas, trees and gardens. Please don't limit the language of your new policies so that you have no leeway to allow for open spaces, beauty and quality of life for permanent residents in our town.

Respectfully submitted by,

Patti & Dave Rouse
371 Deer Pl
Cannon Beach, OR 97110

10-16-2021

Dear Cannon Beach City Council,

I have owned businesses in Cannon Beach for the past ten years and purchased a home here five years ago.

I agree with the Planning Commissions recommendation to keep the FAR and LOT Coverage ratios as they currently stand. They seem to be working and with the restriction on lot combinations I have not seen any compelling arguments for their change.

However I **disagree** with the 3500 sq ft limitation if as currently described **IF IT INCLUDES HABITABLE LOFT or ATTIC AREA SQUARE FOOTAGE.**

By including a loft over garage space or above living space it allows higher density occupancy without impacting the exterior visuals of the structure.

By including loft square footage in the 3500 limit calculations we are needlessly restricting use of owners land and property. In some cases this limit will prevent the conversion of an attic area to occupancy even though the exterior of the home would be unchanged. Why?

A change that prevents the addition of a loft seems to needlessly reduce the functionality of a planned home or remodel and could encourage larger footprint structures not smaller.

In my case I am currently in the process of expanding my home that will include a 650 sq foot loft over a garage to house a family member. This loft sq footage fits within the current FAR and Lot coverage codes. Under the new 3500 square foot limit the LOFT will not be allowed even though the size and exterior appearance of the structure would be the same with or without the loft.

I urge the Council to follow the Planning Commission recommendations and **DO NOT CHANGE THE CURRENT FAR & LOT CALCULATIONS**, and **Do Not include LOFTS** in the 3500 sq foot gross floor area limitation.

Thank you for your consideration.

Respectfully Yours,

Jay Shepard
500 Vine Maple Court

City of Cannon Beach
Attn: Cannon Beach Planning Commission

Subject: ZO 21/02, (Proposed amendments to revise language restricting lot combinations, limiting single family residential dwelling size, and further restricting lot coverage and floor area ratios.....).

Regardless of provisions or revised language within the land use regulation, we suggest that for any build of a new residence, or for that matter a remodel which adds height to an existing residence, that due consideration be given to:

- * A design that compliments the charm and character of the neighborhood
- * Citing and design that considers neighboring residences to ensure others are not negatively impacted - or attempts are made to ensure impacts to others are minimized
- * Assure that owners of neighboring properties are consulted - not just informed - prior to approvals. They could and perhaps should be involved in working toward an outcome positive for all.

We write to the planning commission suggesting such considerations as we see these planning discussions as too little too late for us - and no doubt many others. We are currently being negatively impacted by the recent destruction of an older cottage, only to be replaced by a newly constructed residence (still under way) where the design is completely out of place for the neighborhood and the citing and size negatively impact not only us, but several others. Our view of the ocean from our lower deck is now completely blocked by this oversized construction and the view from the upper deck has been drastically reduced. The very reason we purchased this home has now been erased with absolutely no consideration by the new owners, the building contractor nor the city of Cannon Beach. Such actions are not in the long-term benefit of Cannon Beach. It was our hope that the design review committee as well as local contractors would pay more attention to retaining the CHARACTER of Cannon Beach.

Look forward to the public hearing on 10/28/2021.

Steve & Jill Martin
Cannon Beach, OR

City of Cannon Beach
Finance Department

OCT 18 2021

Received

Jeffrey Adams

D-10

From: Gary King <GKing@trans-system.com>
Sent: Tuesday, October 19, 2021 3:35 PM
To: Planning Group
Subject: Land use regulation zo 21-02

Dear Mr. Adams, Our family has been involved with CB property since 2008 when we purchased a house on Antler and after that a large lot on Haystack Lane. Unless there will be a grandfathered clause for earlier property purchases we would be completely against this proposal.

In addition the proposal seems to be:

- 1) Significant overreach by whoever drafted the document.
- 2) House challenged when you limit house size to 3,500 square footage (including carport, and/or garage).
- 3) Targeting families who want or need larger houses but want to build one house on two lots. (Our current family is now 5 adults, soon to be 5 children and 4 dogs), Needless to say this proposal creates significant challenges in the future.
- 4) Directly challenging our ability to use Haystack Lane property, which is an oversized lot, to handle the above family issues.
- 5) Creating property tax losses (due to property value decreases) for both CB and Clatsop county.

I am not sure what all of the other proposed rules are trying to control. However given the few items listed above I would suggest someone is not trying to create a reasonable solution to a problem. A problem that I am unable to recognize.

Our family has been coming to CB since the 1970's and would like to continue that family history.

Thank you,
Gary King

509 998 0693

Jeffrey Adams

From: Judi McLaughlin <sammamishturtle@gmail.com>
Sent: Thursday, October 21, 2021 2:27 AM
To: Jeffrey Adams
Subject: Change in square footage for housing

I am writing to state that the proposed limit of 3500 sf on housing is an overreach by the planning commission. Though I completely understand limiting waterfront home size and height and limiting size of homes in the downtown presidential streets; to add additional rules on the already astringent limits to building outside the downtown corridor is just ridiculous. If you are so worried about CB keeping it's esthetic, you should never have allowed that monstrosity on the corner of W. Washington. Housing outside of CB, especially on the other side of the highway should not have limitations that extreme. Also by definition, the sf of a home by ALL standards is living space. This means you do not include garages, sheds, attics, or porches. With more and more families needing multi-generational housing to care for elders and children, the need for homes up to 4000 sf of LIVING SPACE ONLY makes sense. If there is one thing we learned from covid is that having appropriate space for everyone to be home studying, working and aging is imperative.

The current building rules for easements, set backs and sizing are more than sufficient.

The Planning commission has gotten a bit big for their britches and the city council needs to reign them in. Cannon beach is a very special place that families have called home for generations. That should not change. Allowing families to stay together in homes that allow for the space needed to function is necessary. Please do not limit the square footage so severely.

Regards,
Judi McLaughlin

Sent from my iPhone

Katie Hillenhagen

From: Crystal Rouse <crystalrouse11@gmail.com>
Sent: Thursday, October 21, 2021 11:22 AM
To: Planning Group
Subject: Testifying for subdivision and zoning ordinance text amendments

Dear, whoever it concerns

Chapter 40 planned development was put into a place for a reason. No changes are necessary to this code. The reasons being are that the people of Cannon Beach have the right to decide how big they want their structures on their property. It is a restriction that is completely unnecessary and will poorly affect the people of this town. More zoning regulations have negative effects on the community and could stop people from moving here. This town relies on tourism and the workers, you go and take away their homes and their options to build homes, you run the risk of raising rent and housing prices. Data shows that excessive zoning regulations have shown to be costly and complicated. Zoning regulations are supposed to support a wide variety of residents, however, the alteration of Chapter 40 planned development is restricting the residents. Rent prices are high enough, the residents of Cannon Beach can not afford to be negatively impacted by the restriction of the new code amendments. Cannon Beach is an amazing town with wonderful people who deserve to have the choice of what to build on their property. This town is diverse and special, please do not take away the uniqueness from this town.

Thank you for your time,
Steven Moon

October 21, 2021

Dear City of Cannon Beach Planning Commission:

We are writing to voice our opinion for the October 28, 2021, public hearing on proposed amendments to the Subdivision and Zoning Ordinances.

We oppose the proposal to limit all residential zone dwellings, in all residential zone districts to 3,500 square foot gross floor area, which includes accessory structures.

Upon review of recent planning commission meeting minutes/video it was stated that the reason for these proposed amendments is to prevent mega homes from being built, and to decrease the rising threat these types of residential development pose to the village character of Cannon Beach.

It seems that the 'mega homes' that have been built in recent years, of which residents and visitors alike have complained about, are a result of demolishing previous structures and building new structures in the 'historic downtown core, as well as ocean front areas of Cannon Beach'. This area is highly visible to all who live in or visit Cannon Beach.

The proposal to limit the square foot gross floor area for all dwellings in all residential zones is too restrictive. For residential areas outside of the 'historic downtown core or ocean front' it is less of an issue because most of these dwellings are not visible from public areas.

The city already has codes in place that require setbacks, which states "the purpose is to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures".

Garages are necessary structures to house vehicles, tools, yard equipment, etc. to keep them protected from the coastal weather conditions; however, including garages in the square footage of a dwelling limits space for multi-generational family gatherings, office space to accommodate people working from home, and space to work on hobbies (wood working, pottery, furniture re-finishing, etc.).

In the July planning commission meeting minutes, it states Jeff Adams proposed a 5,000 square foot gross floor area limit, but the planning commission settled on 3,500 SF GFA limit. Is this an arbitrary figure? What is it based upon?

In reading through the minutes and reviewing the presentation from the September 8th joint work session of the PC, CC and DRB, there are various options with many different figures. In the notice we received in the mail (which was postmarked 10/13/21, 15 days prior to the public hearing) from the city it states the proposal seeks to amend Floor Area Ratio and Lot Coverage figures and place the 3,500 SF GFA limit on all residential and their accessory structures; however, we are not sure which Lot Coverage and Gross Floor Area figures coincide with this proposal. Is it the Progressive Lot Coverage and Floor Area Ratio tables? Is it the other option that proposes RVL Lot Coverage not to exceed 50% for lots greater than 10,000 SF, or not to exceed 30% for lots less than 10,000 SF, or RL Lot coverage not to exceed 50% for lots greater than 10,000 SF, or not to exceed 40% for lots less than 10,000 SF? The Progressive Lot Coverage tables contradict the other option for Lot Coverage mentioned above. For

example, in the Progressive Lot Coverage table in an RVL zone a 14,000+ SF lot has a maximum Lot Coverage of 20%, whereas in the other option the Lot Coverage is not to exceed 50% for this size of lot.

We respectfully urge the commission to oppose this amendment to the Subdivision and Zoning Ordinance.

Sincerely,

Jeff and Jodi Moon

State Of Oregon

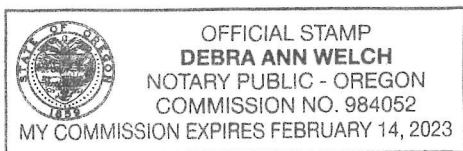
County Of Clatsop } ss.

Affidavit of
PUBLICATION

I, **Lauren McLean**, being duly sworn, depose and say that I am the principal clerk of the manager of **THE ASTORIAN**, a newspaper of general circulation, as defined by section ORS 193.010 and 193.020 Oregon Compiled Laws, Annotated, printed and published tri-weekly at Astoria in the aforesaid county and state; the Legal Notice: **AB8421 Notice of Public Hearing** printed copy of which is hereto attached, was published in the entire issue of said newspaper **One** successive and consecutive time(s) in the following issues: **October 5th, 2021.**



Signed and attested before me on
the **8th** day of **October, 2021**
by:



Notary Public for the State of
Oregon, Residing at Astoria,
Oregon, Clatsop County.

Copy Of Advertisement

**AB8421
NOTICE OF PUBLIC HEARING
CANNON BEACH PLANNING COMMISSION**

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, October 28, 2021 at 6:00 p.m.** at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, regarding the following:

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 Subdivision & Zoning Ordinance text amendments request will be reviewed against the criteria of the Municipal Code, Section 17.86.070.A, Amendments, Criteria.

As noted above, on Thursday, October 28, 2021, the City of Cannon Beach will hold a public hearing regarding the adoption of an ordinance (ordinance number to be determined). Cannon Beach has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A draft ordinance is available for inspection at the City's website (www.ci.cannon-beach.or.us) and at Cannon Beach City Hall located at 163 East Gower Street, Cannon Beach. A copy of the ordinance also is available for purchase at a nominal cost to cover the cost of reproducing the document.

For additional information, you may call the Community Development Department at (503) 436-8040.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Correspondence should be mailed to the Cannon Beach Planning Commission, ATTN: Planning Department, P.O. Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Staff reports are available for inspection at no cost, or may be obtained at a reasonable cost, seven days prior to the hearing. Contact Jeff Adams at City Hall (503) 436-8054 or planning@ci.cannon-beach.or.us for further information.

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

Published: October 5, 2021.

City of Cannon Beach
Finance Department

OCT 11 2021

Received

Katie Hillenhagen

From: Katie Hillenhagen
Sent: Tuesday, September 14, 2021 12:30 PM
To: Wanna Ryon
Subject: Utility Mailer Notice
Attachments: 211028.ZO21-02PublicNotice (003).docx; 211028.ZO21-02PublicNotice.pdf

Hi Wanna,

Attached are the notice documents for the Zoning Change we discussed. I cc'd you on my email to BMS but wanted to send it to you as well so that I can supply the GL # (010-300-62440) and so that you have them to send out an email blast (which needs to go out by Oct. 6th). I will let you know if any edits come back. Thanks for your help!

Best,
Katie



Katie Hillenhagen

Administrative Assistant – Planning Department

City of Cannon Beach

p: 503.436.8054 | 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: hillenhagen@ci.cannon-beach.or.us

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

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

THIS IS TO NOTIFY YOU THAT THE CITY OF CANNON BEACH HAS PROPOSED A LAND USE REGULATION THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY AND OTHER PROPERTIES*

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, October 28, 2021** at **6:00 p.m.** at Cannon Beach City Hall, 163 East Gower Street, Cannon Beach, regarding the following:

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 Subdivision & Zoning Ordinance text amendments request will be reviewed against the criteria of the Municipal Code, Section 17.86.070.A, Amendments, Criteria.

As noted above, on Thursday, October 28, 2021, the City of Cannon Beach will hold a public hearing regarding the adoption of an ordinance (ordinance number to be determined). Cannon Beach has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A draft ordinance is available for inspection at the City's website (www.ci.cannon-beach.or.us) and at Cannon Beach City Hall located at 163 East Gower Street, Cannon Beach. A copy of the ordinance also is available for purchase at a nominal cost to cover the cost of reproducing the document.

For additional information, you may call the Community Development Department at (503) 436-8040.

All interested parties are invited to attend the hearings and express their views. Statements will be accepted in writing or orally at the hearing. Correspondence should be mailed to the Cannon Beach Planning Commission, ATTN: Planning Department, P.O. Box 368, Cannon Beach, OR 97110 or via email at planning@ci.cannon-beach.or.us. Staff reports are available for inspection at no cost, or may be obtained at a reasonable cost, seven days prior to the hearing. Contact Jeff Adams at City Hall (503) 436-8054 or planning@ci.cannon-beach.or.us for further information.

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

About this notice:

*In 1998, Oregon's voters passed a law known as Ballot Measure 56. It requires that notices like the one above be mailed to landowners when a change in land-use laws might limit use of their property. The law requires the City of Cannon Beach to use the above wording in such notices, even though that wording may not describe the likely effects from the change in land-use laws very well. The Measure also requires the notice to say that the City of Cannon Beach has determined that the proposed land use changes "may change the value of your property." But the City of Cannon Beach does not know how these amendments might affect the value of your property, if at all.

Posted/Mailed: **October 6, 2021**

Published: **October 6, 2021**

Possible code amendments include but are not limited to:

TITLE 16 SUBDIVISION ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTER 4 LOT LINE ADJUSTMENTS PROHIBITING THE COMBINATION AND RECOMBINATION OF LOTS TO MAKE LARGER LOTS; AND TITLE 17 ZONING ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTERS 8 RESIDENTIAL VERY LOW DENSITY, 10 RESIDENTIAL LOWER DENSITY, 12 RESIDENTIAL MODERATE DENSITY, 14 RESIDENTIAL MEDIUM DENSITY, 16 RESIDENTIAL HIGH DENSITY, 18 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING AND 20 RESIDENTIAL MOTEL RESTRICTING GROSS FLOOR AREAS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES AND ALL ACCESSORY STRUCTURES INCLUDING ACCESSORY DWELLING UNITS TO 3,500 SQUARE-FEET; AND LIMITING FLOOR AREA RATIOS AND LOT COVERAGE FOR EACH RESIDENTIAL DISTRICT; WHILE REPEALING CHAPTER 40 PLANNED DEVELOPMENT

The Proposed changes to the Subdivision and Zoning Ordinances involve three major revisions:

1. The City is proposing to limit the combination or recombination of contiguous properties, except for those that are required to be combined to meet the minimum lot size requirements of the zoning district. In other words, to limit the potential of buying two or more adjacent properties, demolishing structures to build larger homes, the City seeks to prohibit such development through amendments to the lot line adjustment language.
2. The City seeks to limit the scale of residential construction through amendments to the Floor Area Ratio and Lot Coverage allowed in each of the residential zoning districts and by placing a 3,500 square-foot gross floor area limit on all residential structures and their accessory structures. The “gross floor area” means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:
 1. Garages and carports.
 2. Entirely closed porches.
 3. Basement or attic areas determined to be habitable by the city’s building official, based on the definitions in the building code.
 4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building’s foundation.
In addition the calculation of gross floor area shall include the following:
 5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area.
3. Whereas, it is the intent of the Planned Development (PD) chapter to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision, yet as the City has found out in its one approved PD, such ‘flexibility’ isn’t always positive. The City has yet to see an ‘upside’ of such ‘flexibility’ and is seeking to repeal the PD language from the Cannon Beach Municipal Code.

ZO 21-02
Vacant Lot Owner Mailing List

account_id	owner_line_1	owner_line_2	street_address	PO Box	city	state	zip_code	country	taxmapkey
55269	01 The Entrust Group FBO	Burton Brent T IRA 55-00193		PO Box 1938	North Plains	OR	97133		51030DD04301
5070	564 Oak Street II LLC		551 5th Ave		New York	NY	10176		51019AC01600
4976	Aikman Richard William		3304 NE Jackson Rd Loop		Hillsboro	OR	97124		51019AD06600
4846	Anthony & Dee Allen		1003 S Frontage Rd W		Moses Lake	WA	98837		51019AA07200
5698	Robert & Debra Atiyeh			PO Box 1426	Cannon Beach	OR	97110-1426		51029CB00401
5924	Barker Elizabeth K Tr		17799 Overlook Cir		Lake Oswego	OR	97034-6707		51030AA10400
4838	Bart Rainmar			PO Box 117	Cannon Beach	OR	97110-0117		51019AA06503
2041	Bassett Jonathan Robert		6016 E Oyer Lane		Cave Creek	AZ	85331		41006BC03800
7090	Beckman Christopher L			PO Box 174	Tolovana Park	OR	97145-0174		51032CC01700
7050	Beckman Elizabeth M			PO Box 836	Tolovana Park	OR	97145-0174		51032CC00361
60651	Brian & Nancy Beggs			PO Box 372	Cannon Beach	OR	97110		51029BC06401
4822	Bennett Jacqueline Vu				Lake Oswego	OR	97034-5836		51019AA05602
6158	Anthony Berg & Denise Long		1651 Woodland Ter		Bremerton	WA	98312		51030AD12307
4933	Berman Sara Natasha		1965 Cook Lane		Tigard	OR	97224		51019AD01601
4912	Blanchette Robert/ Demuth Monica		16192 SW 104th Ave		Calgary	Alberta	T3H3T6	Canada	51019AD00305
5781	Bonde Joshua		35 RoseTree Rd NW	PO Box 670	Cannon Beach	OR	97110		51029CC00400
6435	Boring Erwin & Lorna L Trust				Boring	OR	97089		51031AA00200
6507	Boyd Kiffe Mary Ellen	Mark Boring	16550 SE 232nd Dr	PO Box 733	Tolovana Park	OR	97145		51031AA05301
6159	Thomas & Heidi Branscomb		1850 NE 60th Ave		Portland	OR	97213		51030AD12308
61327	Brown Timothy F		12357 42nd Ave NE		Seattle	WA	91285		41006BC07701
5735	Cory & Brook Burnett		63355 Silverado Dr		Bend	OR	97703		51029CB01600
52734	Byrne Diana Kathleen			PO Box 1298	Cannon Beach	OR	97110		51030AA10701
60073	Patricia, Donald, & Ruth Caldwell		17970 SW Lake Haven Dr		Lake Oswego	OR	97035		51031AD05601
5442	Cannon Beach Chamber of Commerce			PO Box 64	Cannon Beach	OR	97110-0064		51020CC00280
5084	Carlich Peter		212 E Bain Dr		Tidewater	OR	97390-9708		51019DA00700
7043	Michael Carney & Anne Peterson			PO Box 5391	Eugene	OR	97405		51032CC00354
6419	Carson Justine Revocable Trust		10231 NW Engleman St		Portland	OR	97229-7532		51030DD07600
2036	Celnik-Soller Bozena M		6205 Carman Dr		Lake Oswego	OR	97035		41006BC03501
6299	Harold & Jennifer Childress		40660 North Fork Rd		Nehalem	OR	97131-9511		51030DA11200
6878	Cho Chan Woo	Lee Annie	10510 12th St Ct E		Edgewood	WA	98372		51032BB00120
6522	Kenneth & Rosemary Clark	Charlene Parks	89808 Ocean Dr		Warrenton	OR	97146		51031AA07501
7094	Steven & Sandy Coleman		30600 S Arrow Ct		Canby	OR	97013		51032CC01900
7048	Jared & Gina Colton			PO Box 1168	Oregon City	OR	97045		51032CC00359
6404	Corson Charles		3635 SW 87th Ave Apt #14		Portland	OR	97225-2838		51030DD06000
2175	Crone Duane H	Crone Pamela J	1500 4th Ave #904		Seattle	WA	98101		41006CB01800
59283	Cameron & Linda Crop		42360 NW Crop Dr		Banks	OR	97106		51032CB01008
5039	Kimberly & Nicholas Crosser		11123 Hyla Ave NE	PO Box 823	Bainbridge Island	WA	98110		51019AD11002
5379	Croteau Marian A				Vancouver	WA	98666		51020CB02400
5354	Steven Dailey & Kelli Ennis		449 S Downing St		Seaside	OR	97138		51020CB00402
6924	Daoud Lesley			PO Box 704	Tolovana Park	OR	97145-0704		51032BC01502
7025	Davis Karyn L		3098 W Cramden Dr		Lehi	UT	84043		51032CC00336
7061	Craig & Shelley Dewey		689 Terrace Dr		Lake Oswego	OR	97034		51032CC00372
2162	Grace & Samuel Dinsdale			PO Box 447	Cornelius	OR	97113		41006CB00906
5557	Dozier Vacation Trust		4010 NE 29th Ave		Portland	OR	97121-1661		51029BC04900
6870	Christy Drumheller			PO Box 975	Cannon Beach	OR	97110		51032BB00110
5567	Dyrdahl Lance L/Jami L		111 Parkway Pl #310		Vancouver	WA	98660		51029BC05403
4792	Molly Hering Edison			PO Box 936	Cannon Beach	OR	97110		51019AA01600
2167	Edmundson Elizabeth R Liv Trust		117 Stockman Trail		Georgetown	TX	78633		41006CB01101
5666	Elk Creek Homes Homeowners	Martin Steve		PO Box 219	Cannon Beach	OR	97110-0219		51029BD01599
2210	Ei-Mansy Family LLC		18820 SW Gassner Rd		Aloha	OR	97007		41006CB03407
2128	English Ellen		439 Garfield St		Denver	CO	80206		41006BC09802
6488	Holly & Amy English		500 Bergis Rd		Lake Oswego	OR	97034-6252		51031AA04100

6919 Bo & Jennifer Ensign	PO Box 854 Cannon Beach	OR	97110	51032BC01300
60172 Ensign Carey Jean	PO Box 4263 South Colby	WA	98384	51032BC01402
55503 Essig Brian William	Vancouver	WA	98682	41006C804400
5359 Faith Elena A	Portland	OR	97219	51020CB00502
6471 Chris & Cecilia Farley	Happy Valley	OR	97086	51031AA02800
6226 Feris Marie L	Happy Valley	OR	97086-6911	51030DA05200
7063 Fitzgerald Robert Britain	Apopka	FL	32712	51032CC00374
5569 Karen Fobert	Milwaukie	OR	97267-5437	51029BC05600
6813 Christopher, Kathleen & Kevin Foster	Portland	OR	97201-1706	51031DD003101
6444 Fox Bryan	Portland	OR	97202	51031AA00801
4854 Fraser Casey/Cheryl	Vancouver	WA	98684	51019AA07605
50294 Fritzier Living Trust	Hillsboro	OR	97123-7336	51019AD01700
6333 Fugich Lyla C	Velm	WA	98597	51030DD01300
4804 Carol Garrett	Portland	OR	97211	51019AA03900
5031 Gecho Peter M	Vancouver	WA	98685-5364	51019AD010800
6868 Gerwien Phillip	PO Box 3126 Honolulu	HI	96820-1261	51032BB00108
5339 Gottlieb M/Gordon W Fann Tr	Pasadena	CA	91103	51020BC00110
4835 Grant Barbara	PO Box 117 Cannon Beach	OR	97110-0117	51019AA06500
6249 Graves Judy J	Portland	OR	97215-2036	51030DA06900
2034 Gray Michael S/Claudia S Tr	Portland	OR	97225-6504	41006BC03401
59207 Gray Nancy A	Portland	OR	97213	51032BC01506
6772 Grove/Payne Family Trust U/A	Seattle	WA	98115	51031DD00200
6954 Karl & Kelly Hadley	Poulsbo	WA	98370	51032BC03201
4806 Hafner Dorothy E Descendantst	Destin	FL	32541-3767	51019AA04100
5364 Haney Family LLC	Portland	OR	97229	51020CB00900
2208 Hanson Heidi	Portland	OR	97232-3407	41006C803405
60020 Harding Jane	PO Box 1386 Cannon Beach	OR	97110	51019AD07002
5840 Robert & Gail Harris	Hillsboro	OR	97124	51030AA03600
5587 Susan Harris Mackay & Robert Mackay	Portland	OR	97202-2133	51029BC07002
6136 Harrison St Development LLC	PO Box 219 Cannon Beach	OR	97110-0219	51030AD01500
6182 Hallmark Inns & Resorts Inc	Lake Oswego	OR	97035	51030DD00905
5032 Hayes Lucinda	PO Box 873 Cannon Beach	OR	97110-0873	51019AD010801
5597 Haystack Gardens LLC	PO Box 219 Cannon Beach	OR	97110-0219	51029BC07800
7084 HOA Cannon Estates TownHomes	Olympia	WA	98501	51032CC01300
61464 Stephen & Angela Hodge	PO Box 1118 Forest Grove	OR	97133	51030DA11401
4904 Kyle Hofseth	Seaside	OR	97138	51019AD00100
6328 David & Elizabeth Holland	PO Box 132 Cannon Beach	OR	97110	51030DD00905
6430 Eric & Lisa Huddleston	PO Box 233 Cannon Beach	OR	97110	51031AA00113
5069 Hughes Charles J	PO Box 233 Cannon Beach	WA	98103	51019AC01500
2027 Hune Richard N/Doreen R Tr	Seattle	WA	98103	41006BC03002
7027 Ron & Molly Jaber	Portland	OR	97232-2633	51032CC00338
2133 Donald, Greg & Mark Jacobsen	PO Box 1496 Cannon Beach	OR	97110	41006BC10301
6449 James Timothy H	PO Box 1469 Cannon Beach	OR	97110	51031AA01100
6930 Janusevskis Ioan Evansen Trustee	Lake Oswego	OR	97034	51032BC01801
6073 Randall & Mary Jenkins	PO Box 143 Tolovana Park	OR	97145	51030AD06600
6262 Edward & Michele Johnson	Portland	WA	99212	51030DA07900
6911 Kane George P/Shirley K	Spokane Valley	WA	99212	51032BC00600
4866 Kayuha Henry J/Darlene F	Portland	OR	97215-1345	51029CE01301
5718 Jerold & Connie Keefe	Ellijay	GA	30536	51019AA07705
6818 Keller Keith P Trustee	Portland	OR	97215	51031DD03600
5807 Kent Francis D/Patricia H Tr	PO Box 1474 Portland	OR	97293-0746	51030AA00900
7019 Kester Darryl Lynn/M June Tr	Milwaukie	OR	97222-5075	51032CC00330
5377 Kindem Christine Hauger	44123 Reidel St Temecula	CA	92592-1509	51020CB02200
	3624 SW 112th St Seattle	WA	98146	

James Family Revocable Trust

Keller William M Trustee

Will Callicot

Davidson Andrea

ZO 21-02
Vacant Lot Owner Mailing List

6922 Kindschuh Kevin J	King Credit Shelter Trust John W	3822 SW Idaho Ter	Portland	OR	97221	51032BC01500
6338 King Gary K		2515 Lacey Ct	Spokane	WA	99223	51030DD01702
6301 Pamela & George Korinsky		10625 Front Beach Rd #2303	Panama City	FL	32407	51030DA11400
6864 Russell & Marilyn Kuhns		2455 NW 133rd Pl	Portland	OR	97229	51031DD06400
2197 Ladenburg Brian	Bryan Melissa	10512 NE Country Club Rd	Bainbridge Island	WA	98110	41006C803001
4834 Lake Chad Adam		500 W Harbor Dr #7111	San Diego	CA	92101	51019AA06400
6527 Lattin William W/June M Co-Tr		10911 NW Quarry Rd	Portland	OR	97231-2617	51031AD00100
2032 Lewis Muriel S		144 Braillier Rd	Tolovana Park	OR	97145	41006B803301
6380 Lifes a Beach			Bellevue	WA	98008-3958	51030DD04102
4950 LucaRental LLC			Cannon Beach	OR	97110	51019AD03300
5384 Ludare LLC		6105 N Wilbur Ave	Portland	OR	97217	51020C802405
6506 Loren & Sharon Madden		13527 W Medlock Dr	Litchfield Park	AZ	85340-4045	51031AA05300
4967 James & Kathleen Malo		32061 SW Savage Rd	Sheridan	OR	97378	51019AD04600
5028 Manning Michael/Pamela		2463 Three Mile Rd	The Dalles	OR	97058-8607	51019AD10702
4859 Thomas & Marianne Manning		622 Hemlock St	Juneau	AK	99801-1437	51019AA07610
5695 Mansfield Joseph F	Frogner Raechel Y	2111 SE 28th PL	Portland	OR	97214	51029C800301
5034 Marchbanks Elijah	Rush Amber	2000 Thompson Ave	Vancouver	WA	98660	51019AD10890
5013 James & Beverly Martin		1747 NE 2nd Pl	Hillsboro	OR	97124	51019AD09702
6835 Marvin Gail George			Mandan	ND	58554	51031DD04600
2090 McKay John L		3100 Fairview Ave E #302	Seattle	WA	98102	41006B807700
51968 McMillin Robert Y	Kelly Andrea L		Portland	OR	97145	41006B806602
61360 Meyer Price Wanda Faye		730 Manzanita Ave	Cannon Beach	OR	97110	51019AD01103
6972 MFF Properties LLC		4137 NE Hazelfern Place	Manzanita	OR	97130	51032C801000
2024 Mike and Mary Serres LLC		1626 NW 37th Ave	Portland	OR	97232	41006B803500
2035 Yaroslav & Olga Mikhalets			Vancouver	WA	98607	51032CB00205
59335 Thomas Misner & Peggy Roberti		220 Odgen Dr	Tolovana Park	OR	97145	51032CB00400
6909 Jeffrey & Jodi Moon			Oregon City	OR	97405	51032CB00100
6955 Moon Steven J			Cannon Beach	OR	97110-0162	51019DD004901
59149 Anthony & Toni Moore			Fairview	OR	97024-1815	51032CC03501
7121 Mike Morgan & Beth Holland			Cannon Beach	OR	97110-0132	51031AA00111
6428 Morgans Mark/Margaret			Cannon Beach	OR	97110-1126	51019AA05600
4820 Chet & Anna Moritz			Cannon Beach	OR	97110	51019AD08700
4995 Philip & James Morton			West Linn	OR	97068-0008	51030DD05300
6397 Mike Mueller	Mueller Family Trust	4302 SW 40th Ave	Portland	OR	97221-4016	51030AA12505
5952 Mulhollan Ruth R TR	Mulhollan Ruth R Rev Lvg Trust	5811 Bay Point Dr	Lake Oswego	OR	97035	51019AD10000
5019 N Larch LLC			Tolovana Park	OR	97145-0456	51031DA00100
52034 Nagle Eric T/Sarah L		4432 Belvedere Lane	Plano	TX	75093	51019DD01300
5234 Najimi MJ		34755 Hwy 101 Business	Astoria	OR	97103-6664	51019AA07500
4851 Neikes James J			Astoria	OR	97103-0804	51019AA07201
4847 Tom & James Neikes			Cannon Beach	OR	97110-0122	51029C802404
5765 Nelson John D			Portland	OR	97213	51031AD06900
6605 Julie Nix & Kathy McCurdy		6235 NE Davis St	Lancaster	PA	17603-3126	51032B800502
50025 Olin Stephen Thomas/Laura Sadler		1029 Woods Ave	Portland	OR	97210	51030AA08900
5904 Onstott Lloyd James		1206 NW 25th Ave	Portland	OR	97210	51020C801700
5372 Osburn W Stephen/Emily S		114 Larkwood Dr	San Antonio	TX	78209	41006B806900
2079 Robert & Betty Palmer		42250 Washington Gulch Rd	Baker City	OR	97814	51020C802600
53462 Earl & Janet Palmetier	Hoyman Palmetier Trust		Cannon Beach	OR	97110	51030DA04100
50973 Patrick/Dave LLC		3514 NE US Grant Pl	Portland	OR	97212	51030DA10900
6296 Agris Pavlovskis	Pavlovskis Living Trust		Cannon Beach	OR	97110	51019AD07800
4986 Maxine Pitton		11630 SE Aerie Crescent Rd	Happy Valley	OR	97086	51032CC01100
7082 Bhagwatti & Saradell Poddar		5371 Greystoke Dr	Lake Oswego	OR	97035	51032CC00318
7007 Maurie Polak O'Dea & Brian O'Dea		3133 SW Fairmount Blvd	Portland	OR	97239	51030DA08300
6266 Jessica & David Ratliff		3149 NE 57th Ave	Portland	OR	97213	

ZO 21-02

Vacant Lot Owner Mailing List

5342 Real House Solution Inc	Reinholz David	19391 SW Suncrest Ln	Beaverton	OR	97007-6056	510208C00400
58997 Eric & Sandra Reiter						
2168 Renard Kathryn E Living Trust		14895 S Redland Rd	PO Box 655 Tolovana Park Oregon City	OR	97145-0655	410068C04001
6144 Larry & Pam Roberson					97045	41006C801200
6441 Stanley & Rebecca Roberts			PO Box 782 Cannon Beach	OR	97110-0782	51030A012102
6145 Roemple Family Trust		925 Lake St S #201	Kirkland	WA	98033	51031AA00600
54148 Roode Andrie B		6118 76 Ave Ct NW	Gig Harbor	WA	98335	51030A012103
7006 Rose Vance E		112 Fifteenth St #635	Del Mar	CA	92014	51032C004001
6454 Jeffrey Rowley & Tracy Abel		30101 SW Grabel Rd	Hillsboro	OR	97123-9282	51032CC00317
7054 Christian & Amy Salinas	Sail Stephen H Family Trust	18790 SW Marne Ct	PO Box 754 Cannon Beach	OR	97110	51031AA01600
6289 Thessa & Teri Sail	Sandstrom Wendy S	5230 SW Westwood Ln	Beaverton	OR	97110	51032CC00365
6052 Sandstrom Philip V		4 Mountain Ridge Dr	Portland	OR	97007-5673	51030DA10200
59334 Steve & Bonnie Scher		1514 NE 63rd Ave	Oxford	NI	07863	51032CB00204
6399 Schoetel Werts Trust		2206 Tamlar Dr	Hillsboro	OR	97124-5086	51030AD04600
57412 Edward & Roberta Schwarz		1514 NE 63rd Ave	West Linn	OR	97068-4144	51020C802410
6809 Mark & Thuy Seafort		9432 SE 52nd St	Mercer Island	WA	98040	51020C802410
59205 Sellers Janice Rev Liv Trust		17250 NW Sellers Rd	Banks	OR	97106	51031DD02901
5381 Seyde James R/Barbara F		19430 Old River Dr	West Linn	OR	97239	51020C802402
60022 Timothy Shepard & Andra George		5270 S Landing Sq #7	Portland	OR	97239	51019AD07004
5387 Shore Christopher A		18113 Upper Hoh Rd	Forks	WA	98331	51020C802408
55888 Short Term Bible Schools Inc			PO Box 190 Cannon Beach	OR	97110-0190	51020C803402
5060 Siebert Rodney Paul/Elizabeth			PO Box 971 Cannon Beach	OR	97110-0971	51019AC00600
2043 Silver Point Development LLC			PO Box 924 Cannon Beach	OR	97110	410068C03900
6388 Silvester Family Trust			PO Box 1385 Cannon Beach	OR	97110	51030DD04400
5983 Simon Michael D/Susan A			PO Box 29 Cannon Beach	OR	97110	51030AA15000
4812 Slegr Family Trust		142 E Sierra Madre Blvd	Sierra Madre	CA	91024-2542	51019AA04800
55812 Jeffrey & Angela Smith		10959 SW Lindenwood Ct	Beaverton	OR	97005	51032BC01700
7064 Linda Smith		408 NE 25th St	Battle Ground	WA	98604	51032CC00375
50972 Snyder Ryan C/Stephanie			PO Box 219 Cannon Beach	OR	97110-0219	51030DA04105
4931 Sodetz Suzanne Kathleen		3641 SE Belmont #A	Portland	OR	97214	51019AD01500
4837 Thomas & Brenda Soupy			PO Box 1993 Auburn	WA	98071	51019AA06502
4836 Soupy Thomas C/Kathleen E		23 SE 103rd Ave	Portland	OR	97216-2790	51019AA06501
51700 Spalding Martha J Family Trust			PO Box 32 Cannon Beach	OR	97110	51031DA01100
59038 Gerald Sroufe & Maureen Dooley-Sroufe			PO Box 166 Cannon Beach	OR	97110-0166	51032BC00100
4862 Steelman Bryan K			Portland	OR	97212	51019AA07701
5329 Steven & Marsha Straus		2017 NE 16th Ave	Portland	OR	97219	510208C00100
6302 Daniel & Lynette Sullivan		11555 SW Riverwood Rd	Anchorage	AK	99517	51030DA11500
51035 Surfand Resort LLC Lessee	Stevens Jeanette E	3201 W 32nd Ave	PO Box 515 Cannon Beach	OR	97110-0515	51030AD08500
5491 Swigart Carmen			PO Box 214 Cannon Beach	OR	97110-0214	510290000100
5026 Tappel Cathy Steele			PO Box 158 Tolovana Park	WA	98660	51019AD10700
7118 Taylor Merrillynn		321 W Fourth Plain Blvd	Portland	OR	97219	51032CC03400
5346 The Victoria Group LLC			PO Box 158 Tolovana Park	OR	97219	510208C00503
53167 James Thoman & Julie Mitchell		5815 SW Orchard Dr	La Quinta	CA	92253	51030DD07900
60729 Thomas Gary A		78605 Bradford Cir	Portland	OR	97290	51031DD05301
6845 Thomas John H			PO Box 6603 Winston	OR	97496	51031DD05300
56899 Michael & Jane Thompson		1117 Matusi Ct	Edmonds	WA	98026-3710	510208C00509
56900 Tiger Real Estate Marketing LLC		14212 59th Ave W	Portland	OR	97210	510208C00509
6508 TMCJ Pacific LLC		25 NW 23rd Pl #6	Bellevue	WA	98005	51031AA05400
5564 Steven & Mary Tulip		12910 NE 32nd Pl	PO Box 1073 Cannon Beach	OR	97110	510298C05301
2026 Ulrich Joanne M/Darrell	Unger Craig Revocable Living Trust	21106 NE Overlook Dr	Dundee	OR	97115-9134	410068C03001
6595 Unger Craig Howard		6020 Kippis Colony Dr E	Guilford	FL	33707	51031AD05800
4954 Van Voorhis Geoffrey Earl	Foggia Jill Elizabeth	11389 NW Knightsview Ln	Portland	OR	97229	51019AD03400
5534 Barry & Allison Varshay		13756 SE 18th St	Bellevue	WA	98005	510298C03000

ZO 21-02
Vacant Lot Owner Mailing List

60662 Betty & Douglas Vetsch	1907 Wetherbee Dr	Grants Pass	OR	97527	510298C03701
7068 Scott & Kelly Vidican	28616 NE 153rd St	Duval	WA	98019	51032CC00600
5704 John & Jean Voelke		PO Box 537 Carmichael	CA	95609	51029CB00700
4833 Robert & Jean Wayne		PO Box 520 Cannon Beach	OR	97110	51019AA06300
4908 Wegener Jean L Trust	8636 NE Eugene St	Portland	OR	97220-5405	51019AD00301
4789 Wessinger Beach Family Prop LLC	706 NW Culpepper Ter	Portland	OR	97210	51019AA01400
55268 Brent Burton & Donna Wicher		PO Box 1938 North Plains	OR	97133-1938	51030DD04302
2046 Rockne & Lila Wickham		PO Box 208 Tolovana Park	OR	97145	410068C04200
7022 Willis Victor W/Sandra K	6124 N Mississippi Ave	Portland	OR	97217-1813	51032CC00333
6287 Wilson James H/Marilyn R Trustee	760 Largo Ct	Fairfield	CA	94533-1418	51030DA10000
6281 Richard & Eileen Wilson	3505 Robinhood St	Houston	TX	77005-2229	51030DA09500
1998 Yolland Janet K 1/2	7260 SW Willowmere Dr	Portland	OR	97225-1139	410068C00900
4932 Mary Katherine & Norman Yunker	1029 South 1200 East	Salt Lake City	UT	84105	51019AD01600
Allen Trust Company					
Wilson Family Trust					
Bruning Phyllis K 1/2					

IMPORTANT NOTICE THAT MAY AFFECT YOUR PROPERTY

THIS IS TO NOTIFY YOU THAT THE CITY OF CANNON BEACH HAS PROPOSED LAND USE REGULATION(S) THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY AND OTHER PROPERTIES.

On October 28th, at 6:00 pm, the Cannon Beach Planning Commission will hold a public hearing, located in the Cannon Beach City Hall Council Chamber 163 E. Gower St., Cannon Beach, Oregon 97110, regarding the following:

- Cannon Beach Municipal Code Amendments to Title 17 Zoning & Title 16 Subdivisions: (ZO# 21-02)

The City of Cannon Beach has determined that adoption of these proposed plans, ordinances and map amendments may affect the permissible uses of your property, and other properties in the affected zone(s), and may change the value of your property. The October 28th hearing will include an overview of proposed updates, timelines for review and adoption, and opportunities for public involvement. Please contact the Community Development Department or go to <http://www.ci.cannon-beach.or.us/planning> for up to date information about future public hearings, opportunities for involvement, and ways to provide comment. Comments can be sent to planning@ci.cannon-beach.or.us

City of Cannon Beach

Community Development Department

PO Box 368

Cannon Beach, Oregon 97110

THESE ORDINANCES MAY OR MAY NOT LIMIT THE USE OF YOUR LAND.

State law requires the City to mail notices to property owners with specific language used on this side of this flyer. Many property owners are receiving these notices and the City has no way to verify whether, how or when proposed land use regulations or zone changes will affect the value of individual properties. Your receipt of this notice does not necessarily mean that any proposed land use regulation or zone change will limit the use of your property or impact the value of your property.

For additional information concerning any of the proposed updates please see the following page or visit our website to find summary descriptions of updates at <http://www.ci.cannon-beach.or.us/planning> . You may also email the Community Development Department at planning@ci.cannon-beach.or.us, or call the City of Cannon Beach Community Development Department at (503) 436-8042 for more information. The criteria for decisions, rules governing legislative hearings, and all other documents and evidence related to each update will be available for inspection seven (7) days prior to each hearing at no cost at Cannon Beach City Hall, 163 E. Gower St., Cannon Beach, Oregon 97110. Copies of proposed changes will be available on the website for download or are available for purchase at a cost of \$0.50 a page.



BRIEF DESCRIPTION OF PROPOSED UPDATES

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.

Possible code amendments include but are not limited to:

TITLE 16 SUBDIVISION ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTER 4 LOT LINE ADJUSTMENTS PROHIBITING THE COMBINATION AND RECOMBINATION OF LOTS TO MAKE LARGER LOTS; AND TITLE 17 ZONING ORDINANCE TEXT AMENDMENTS AFFECTING CHAPTERS 8 RESIDENTIAL VERY LOW DENSITY, 10 RESIDENTIAL LOWER DENSITY, 12 RESIDENTIAL MODERATE DENSITY, 14 RESIDENTIAL MEDIUM DENSITY, 16 RESIDENTIAL HIGH DENSITY, 18 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING AND 20 RESIDENTIAL MOTEL RESTRICTING GROSS FLOOR AREAS FOR SINGLE-FAMILY RESIDENTIAL STRUCTURES AND ALL ACCESSORY STRUCTURES INCLUDING ACCESSORY DWELLING UNITS TO 3,500 SQUARE-FEET; AND LIMITING FLOOR AREA RATIOS AND LOT COVERAGE FOR EACH RESIDENTIAL DISTRICT; WHILE REPEALING CHAPTER 40 PLANNED DEVELOPMENT

The Proposed changes to the Subdivision and Zoning Ordinances involve three major revisions:

1. The City is proposing to limit the combination or recombination of contiguous properties, except for those that are required to be combined to meet the minimum lot size requirements of the zoning district.
2. The City seeks to limit the scale of residential construction through amendments to the Floor Area Ratio and Lot Coverage allowed in each of the residential zoning districts and by placing a 3,500 square-foot gross floor area limit on all residential structures and their accessory structures.
3. The City is seeking to repeal the PD language from the Cannon Beach Municipal Code.

HEARINGS INFORMATION

You may participate at any time in this process prior to the final decision by the Cannon Beach City Council. Hearing dates, agendas, and staff reports will be available seven days prior to each hearing. We also publish notice at least 20 days in advance of the first evidentiary hearing in *The Astorian*.

If you cannot attend any hearing but wish to provide comments you may do so in writing at the street address listed above or by email to planning@ci.cannon-beach.or.us. Written comments submitted at least fifteen days prior to the hearing will be provided to the Planning Commission in advance of the hearing.

Time for oral testimony at the hearing may be limited if large numbers of people wish to testify. Persons who wish to provide extensive testimony are encouraged to submit their comments in writing at least 15 days in advance of a hearing.

For tips about testifying see "How to Testify at Land Use Hearings (May 2006)" at <https://www.ci.cannon-beach.or.us/sites/default/files/fileattachments/planning/page/133/howtotestify.pdf>

If assistance is needed to participate in a meeting, please contact the City of Cannon Beach Community Development Department at (503) 436-8042. Notification of at least 24 hours prior to the meeting will assist the City in providing reasonable accommodations.



Cannon Beach Planning Commission

Staff Report:

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

Agenda Date: October 28, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

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

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

DISCLOSURES

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

EXHIBITS

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

"A" Exhibits – Application Materials

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

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

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

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

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

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

- A-6** EXHIBIT 05, Harrison Submittal: Photo of interior of Harding’s accessory structure; Clatsop MLS 2021
- A-7** EXHIBIT 06, Harrison Submittal: Photo of interior of Harding’s accessory structure; Clatsop MLS 2021
- A-8** EXHIBIT 07, Harrison Submittal: Photo of interior of Harding’s accessory structure; Clatsop MLS 2021
- A-9** EXHIBIT 08, Harrison Submittal: Photo of interior of Harding’s accessory structure; Clatsop MLS 2021
- A-10** EXHIBIT 09, Harrison Submittal: Applicant’s transcript from January 14, 2020 City Council Work Session discussion re: Harding ‘garage’ on Lot 1 of the Nicholson PUD.
- A-11** EXHIBIT 10, Harrison Submittal: Applicant’s transcript from October 23, 2020 Planning Commission, first appeal of administrative decision to approve Najimi building on Lot 1 of Nicholson PUD.
- A-12** EXHIBIT 11, Harrison Submittal: Applicant’s transcript of December 1, 2020 City Council discussion, appeal of Najimi building permit, Lot 1, Nicholson PUD
- A-13** EXHIBIT 12, Harrison Submittal: Vasquez Yard & Tree Work Inc. Invoice for Living Wall landscaping work, dated September 11, 2021;
- A-14** EXHIBIT 13, Harrison Submittal: Harrison email correspondence with Adams and Kabeiseman, dated May 7, 2021;
- A-15** EXHIBIT 14, Harrison Submittal: Applicant’s Site Plan analysis;
- A-16** EXHIBIT 15, Harrison Submittal: Applicant’s transcript of March 1, 2016 City Council discussion of ‘Living Wall’, Final Approval Hearing, Nicholson PUD;
- A-17** EXHIBIT 16, Harrison Submittal: Applicant’s November 26, 2019 Planning Commission, Good of the Order, discussion re: incompatibility between Nicholson PUD Shared Access Maintenance Agreement (which includes private space) and the lack of HOA based on promise of no private space.

“B” Exhibits – Agency Comments

None received as of this writing;

“C” Exhibits – Cannon Beach Supplements

- C-1** Cannon Beach Preservation Planned Development Subdivision Conditions of Approval,, from LUBA Record 2016-033;
- C-2** Cannon Beach Preservation Planned Development Subdivision Plat, Recorded November 21, 2016;; Recorded November 21, 2016;
- C-3** Memo, Staff Produced and dated January 8, 2020;
- C-4** Building Permit #19-1084, with Plan Attachments, excluding Structural Calculations; issued August 5, 2020;
- C-5** House Plans for Najimi Residence, by Tolovna Architects, dated June 9, 2020; with Attachments;
- C-6** Outdoor Living Area Map; Staff produced, undated;
- C-7** Outdoor Living Area KPFF Calculations; Staff produced, undated;
- C-8** Outdoor Living Area Staff Calculations; Staff produced, undated;
- C-9** (Common Open Space and Common Access Easement) Shared Access and Maintenance Easement, Recorded November 21, 2016;
- C-10** Grant of and Agreement with Respect to Easements, Clatsop County Recorded Document# 201401763;March 28, 2014;

- C-11** Amendment to Grant of and Agreement with Respect to Easements, Clatsop County Recorded Document# 201404937; August 6, 2014;
- C-12** NA
- C-13** Staff Report Addendum, dated October 22, 2020;
- C-14** Cannon Beach Planning Commission Order, Findings of Fact and Conclusions of Law, signed October 22, 2020;
- C-15** Letter of Appeal, Dean Alterman, Alterman Law Group, LLC, on behalf of M. J. Najimi, dated and received November 3, 2020; and Application;
- C-16** Minutes from the September 24, 2020 Cannon Beach Planning Commission Meeting;
- C-17** Minutes from the October 22, 2020 Cannon Beach Planning Commission Meeting;
- C-18** Scope of Review Staff Report, November 10, 2020;
- C-19** Minutes from the November 10, 2020 Cannon Beach City Council Meeting;
- C-20** Minutes from the December 1, 2020 Cannon Beach City Council Meeting;
- C-21** Cannon Beach City Council Findings of Fact & Decision, December 8, 2020;
- C-22** Minutes from the December 8, 2020 Cannon Beach City Council Meeting;
- C-23** Cannon Beach City Council Revised Findings of Fact & Decision, February 2, 2021;
- C-24** Minutes from the February 2, 2021 Cannon Beach City Council Meeting;
- C-25** Land Use Board of Appeals (LUBA No. 2020-118) Final Opinion and Order, June 21, 2021;
- C-26** Second Najimi Building Permit, BP# 164-21-000179-DWL, issued August 18, 2020;

“D” Exhibits – Public Comment

- D-1** Dean Alterman letter, on behalf of M.J. Najimi, dated and received, October 21, 2021;

SUMMARY & BACKGROUND

The appellants, Jeff & Jennifer Harrison, are appealing the administrative decision to approve a building/development permit (BP# 164-21-000179-DWL) issued to authorize a new residential structure at 544 N. Laurel, also known as the Najimi Lot 1. This site is one of the lots in the Cannon Beach Preservation Planned Development Subdivision (also known as the Nicholson Planed Development), which was approved by the Cannon Beach City Council in 2016. The background of the development and many of the questions brought up in this letter of appeal are addressed in the attached “Memorandum to the City Council, regarding the Nicholson Planned Development Easement Accessory Structure,” dated January 8, 2020 (**Exhibit C-3**).

The first application (the “First Application”) for a home on this lot, including accompanying building plans, was received November 8, 2019 and staff began the Plan Review process within the week. The Plan Review process incorporates all Oregon Building Code requirements under Title 15 of the Cannon Beach Municipal Code as well as all applicable portions of Title 17 Zoning Code, including the Planned Development plat and conditions of approval for the Planned Development.

The scope of Plan Review is important to the efficient processing of applications for building permits. CBMC 17.92.010(A)(2) states, “In the case of a structure or building requiring a building permit, the development permit may be part of the building permit.” Thus, BP#19-1084, **Exhibit C-4**, serves as both the Building Permit and Development Permit for the Najimi Residence, as is the customary practice of the Cannon Beach Community Development Department for the majority of over one hundred yearly building permits processed and approved. In the case of a development permit accompanying a building permit, the scope of review is typically

limited, as the use is outright permitted in the zone, and it is not intended to grant an opportunity to revisit issues settled in previous actions, such as the appropriateness of the underlying zoning, any variances or setback reductions, or, as in this case, issues decided in the subdivision process.

Staff corresponded with the Najimi's representatives over a number of months and a number of revisions of the First Application, before a set of plans that meets the conditions of approval, plat and specifications of the agreements, were produced and approved. See **Exhibit C-5**. Final Building Permit approval was granted on July 23, 2020 and released on August 5, 2020. The Harrison's appeal of the administrative decision on the First Application was received August 5, 2020. The record of the correspondence is included as **Exhibit C-4**, which shows that there were a number of issues addressed during the lengthy review process, before the issuance of the building permit.

The Planning Commission over-turned the administrative decision on the First Application (**Exhibit C-14**), the City Council upheld the decision to deny the building permit on December 8, 2020 (**Exhibit C-21**) and revised their findings to reconsider the Building Official's administrative decision on habitable space (**Exhibit C-23**). The Applicant appealed the City's denial decision to LUBA and LUBA upheld the City's decision to deny, issuing a Final Opinion and Order on June 21, 2021 (**Exhibit C-25**).

LUBA reviewed four assignments of error and, eventually, LUBA upheld the City's decision on only one of them, finding:

"However, due to the posture of this appeal and the other bases for denial, resolution of additional issues may be useful if, in the future, petitioner files a new building permit application. We therefore also resolve the issues presented in the first, second, and third assignments of error, so that the parties will have a more complete resolution by LUBA of the appeal."

"We conclude above that the city properly denied the building permit application because the turret failed to satisfy the height limitation in CBMC 17.14.040(E). That is a permissible basis for denial. However, we emphasize that, as explained in our resolution of the first and third assignments of error, the city has no authority to apply the PD standards to an application for a building permit for a lot in the Subdivision, and it may not deny a building permit application that otherwise complies with the applicable building standards for failure of the Subdivision or an individual lot in the Subdivision to provide common open space." (**Exhibit C-17**, p. 10, underlining added for emphasis).

The City of Cannon Beach received a new application for a building permit, with revised plans, removing the turret structure, on June 23, 2021 (the "Second Application"). On August 4, 2021, BP# 164-21-000179-DWL was approved and issued by the City of Cannon Beach. On August 18th, 2021, within the 14 consecutive day appeal period, Mr. Hathaway on behalf of Jeff and Jennifer Harrison filed an appeal of the administrative decision, based on four arguments of appeal.

1. FAR Limitation and the Loft.

First, the appellants argue that

"The line for 'loft' is left blank. The existing two-story 'garage/loft' contains 210 sq. ft. of floor space that must be counted. If correctly counted, the FAR worksheet would reflect 61.25% coverage violating the 60% maximum FAR specified in CBMC 17.14.040(D)."

As can be found in the 'Definition of Gross Floor Area', which is included on the FAR worksheet included in **Exhibit A-3**, dated July 15, 2021, the 'garages and carports' have been included in the 630 square-foot calculation of the accessory structure, but the 'loft' area, which was not "determined to be habitable by the City's Building Official, based on the definitions in the building code," was not included. The garage, thus, as identified on the FAR worksheet, line item '6. Habitable Accessory Structures,' has been filled as 420 SF, and has

been corrected to include 210 SF of vaulted ceiling space, or 630 SF total, double-counting for non-lofted area, under the provisions of the last clause of the gross floor definition, and yet the total still comes to 4,384 SF, or just 58% of the 60% allowed.

To begin with, this argument was previously addressed in the resolution of the First Application. The Planning Commission addressed it at the September 2020 PC hearing, where the Planning Commission could not agree with the applicant that an almost identical structure exceeded the FAR. The PC Findings are attached (**Exhibit C-14**) which documents the discussion. As stated in the first argument above, and in the Findings of the previous appeal, the Building Official did not determine the storage loft to be habitable or livable space.

As noted above, the Planning Commission's decision on the First Application was appealed to the City Council, and the Council's decision initially included a finding agreeing with Mr. Harrison's argument:

"Turning to the maximum habitable space-footage, the Planned Development approval required that the total habitable space for the entire Planned development may not exceed 9,000 SF and the Najimi Lot 1 shall not exceed 3,090 SF. The Council finds that Floor Area Ratio worksheet shows a total square-footage for the home proposed in the application equal to 3,090 SF. However, this square-footage calculation did not include the habitable square-footage from the Harding garage on the parking easement of Lot 1. The Council does not support the Cannon Beach Building Official and Community Development Director's opinion that the 'storage loft' area, although not accessible by stairs, isn't to be considered similar to a 'sleeping loft' and thus, to be included in the habitable space calculation, bringing the total for Lot 1 to 3,300 SF.

"The City Council specifically notes that condition #3 of the decision approving the Planned Development requires that "sleeping lofts, detached accessory sleeping quarters, fully enclosed sun rooms, and hallways," are 'habitable space,' as opposed to the 'unfinished attics, crawl spaces, storage areas and similar spaces," which are deemed uninhabitable. In this case, the City Council notes that the loft area in the garage is fully enclosed and that the structure contains a full bathroom, as well as a furnace and other accouterments that the Council considers to be more consistent with including the area in the calculation of habitable space."

(See Exhibit C-21)

That decision was issued on December 8, 2020. However, after the decision on the First Application was appealed to LUBA, the City Council withdrew that decision for reconsideration and revision. On February 2, the City Council re-issued its decision, striking that language from the initial Findings, agreeing with the Building Official's determination that the loft area was not habitable and should not be included in the calculation.

There is nothing in the appeal to suggest any different outcome than the City Council's decision in its re-issued decision.

2. The Garage.

Second, the Appellants make two related arguments that no garage is allowed as part of the structure, largely because of an existing garage already on the property. The appellants first argue that the proposed second garage violates PUD approval condition #16, which states, in part: *"Should any lot contain **a** garage or carport, **it** shall be no larger than **a** two-car garage. ...if **the** garage is detached, then **the** garage may not include a second story of livable space."* (emphasis added), noting that "all references to the garage in PUD condition #16 are unambiguously singular and limits each PUD lot to one garage." The appellants also argue that

"the proposed attached garage to the detached single-family residential dwelling is not allowed as an accessory use under CBMC 17.14.020 and is in violation of the City's Code since the Property currently contains an accessory garage."

There is no prohibition to having two garages or any limitation on the number of accessory structures for the R2 zoning district or under the PUD approval conditions, as long as they meet other zoning provisions, such as Lot Coverage and Floor Area Ratio. As with all residential zoning districts CBMC 17.14.0202 Uses permitted outright states that "In an R2 zone the following uses and their accessory uses are permitted outright." There is no

standard or limitation that a residential structure is limited to one attached or detached garage; the only limitation found in condition #16 states is that a garage be limited to a two-car garage and, if detached, shall not have a second story of livable space.

It is also worth noting that this argument was raised in the October 22, 2020 PC Hearing on the First Application by one of the Commissioners (see **Exhibit C-17**, Minutes, pg. 6 of 12). The PC had the opportunity to consider this in the previous appeal and chose not to take action.

3. The Living Wall.

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

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

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

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

That condition addresses the installation of the living wall and requires a contract with a landscape professional. To the extent that the planting is not successful, it authorizes the City to “take any necessary enforcement actions.” As noted above, the review of this building permit is limited to CBMC Title 15, and the applicable parts of CBMC Title 17, as well as the applicable parts of the PUD approval. None of those provisions authorize the City to refuse to issue a building permit on this basis. The City may take “enforcement action” under its code, but that does not extend to allowing it to refuse to issue a building permit that otherwise meets the requirements of its code and the PUD.

4. The Homeowners Association.

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

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

The Appellants do not identify the source of authority for the City to require the establishment of a homeowners association for the PUD; presumably it is because of the provision in the City’s PUD ordinance that a homeowners association is required under CBMC 17.40.030(G)(2) whenever a PUD contains commonly-help outdoor living area. However, in the City’s review of the final plan for the PUD in 2016, the City Council explicitly concluded that no homeowners association would be required for this PUD (See **Exhibit C-1**, pp. 7-8). LUBA was clear in its resolution of the appeal of the First Application that the City had no authority to apply PUD standards to this application for a building permit. Accordingly, the City does not have the authority to require the establishment of a homeowners association in its review of this building permit.

Conclusion.

This application for a building permit comes with a lot of history, both in the review of the planned unit development, as well as a house on this lot. Whether there is agreement over past decisions or not is not the point; the City cannot revisit decisions that were made as part of the PUD process. Moreover, the City has

already had one opportunity to consider each of these points and ask for revisions. The applicant has complied with the earlier request and yet is faced with another round of arguments, many rehashed from the previous appeal. In fact, as noted above, many of these were not arguments forwarded in the letters of appeal at all, but arguments initiated during Planning Commission discussion or by Planning Commission members themselves and brought back for further consideration.

APPLICABLE PROCEDURE

17.88.160 Scope of review.

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

17.88.180 Review consisting of additional evidence or de novo review.

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

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

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

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

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

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

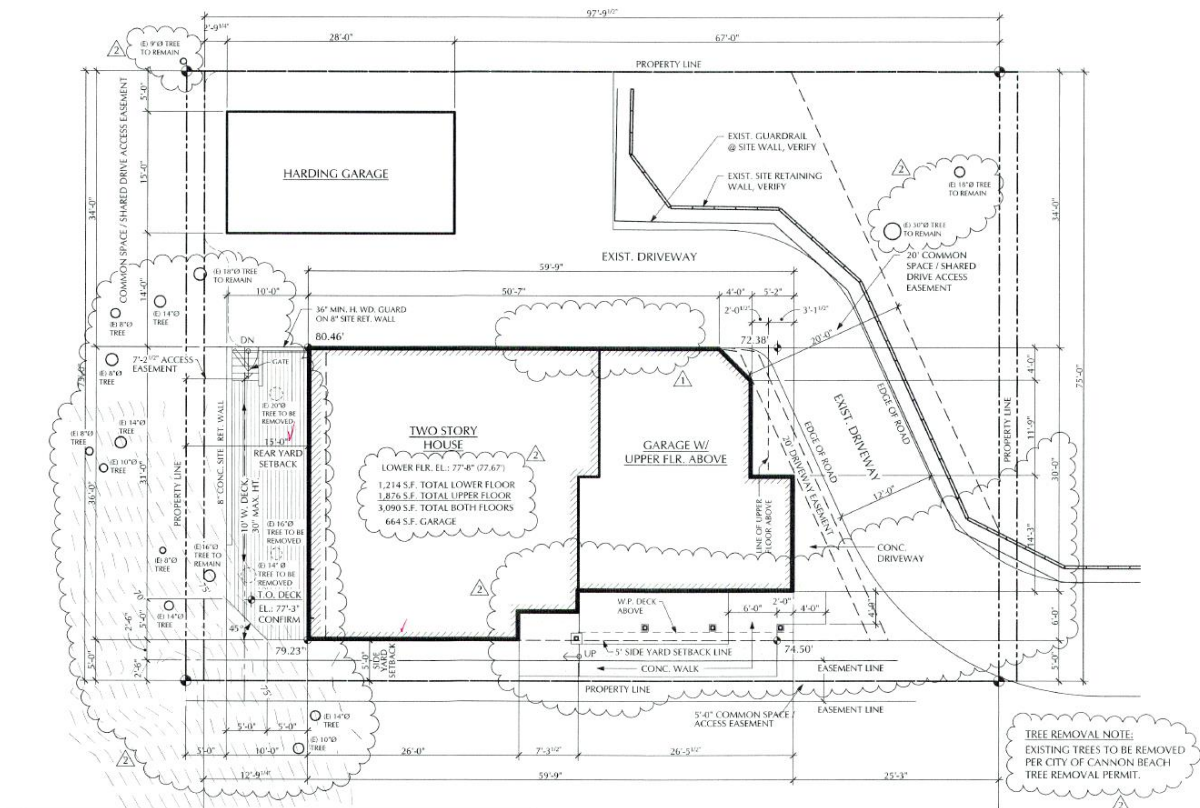


Figure 1, Najimi Lot 1 Site Plan

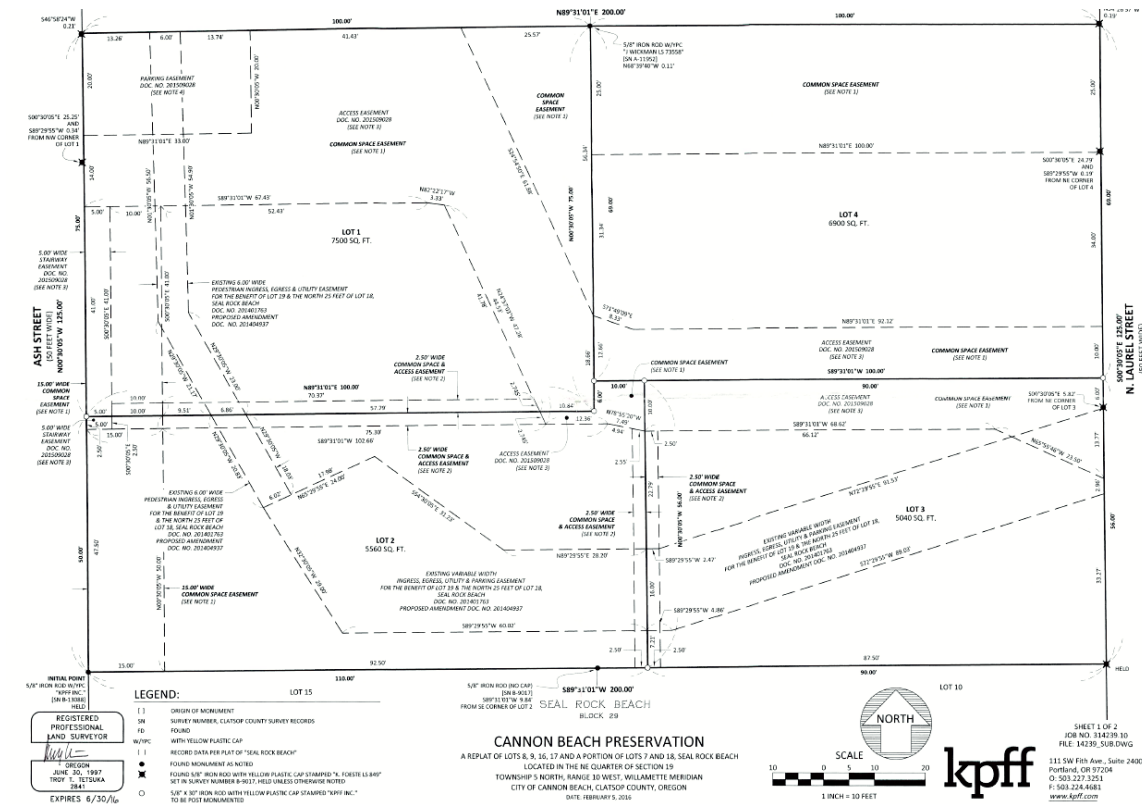
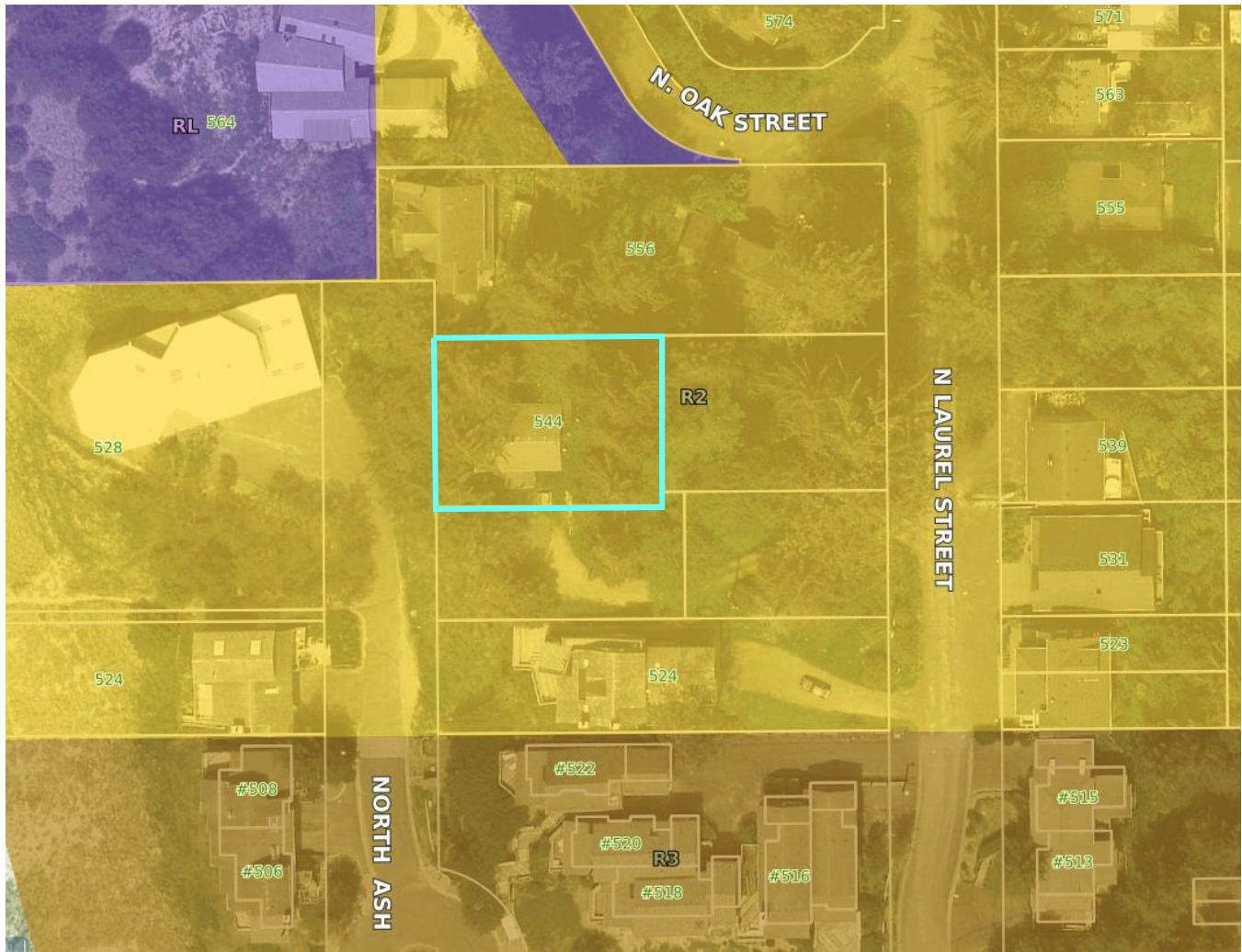


Figure 2, Cannon Beach Preservation PD Subdivision

DECISION AND CONDITIONS

MOTION: Having considered the evidence in the record, I move to ***tentatively*** (approve/approve with conditions/or deny) the Hath application, on behalf of Jeff & Jennifer Harrison, for an appeal of an administrative decision to approve Building Permit (BP# 164-21-000179-DWL), application **AA# 21-01**, as discussed (subject to the following conditions) and requests that staff draft findings for review and adoption, at a special called meeting, next Thursday at 6PM, November 4th, 2021 at City Hall.



Site Location Map



Street View, looking west, from the driveway easement



CITY OF CANNON BEACH

A-1A

NOTICE OF APPEAL - ADMINISTRATIVE DECISION

Appellant's Name: Harrison

Email Address: _____

Mailing Address: _____

Telephone: _____

1. Appeal of Administrative Decision by _____, regarding:

See attached

as stated in letter dated _____.

2. Specific grounds relied upon for the appeal, including any Zoning Ordinance criteria or standards that you consider to be relevant:

Please attach additional pages, if needed, and any other relevant information.

FEE: \$600.00

Appellant Signature: _____ Date: _____

For Staff Use Only:

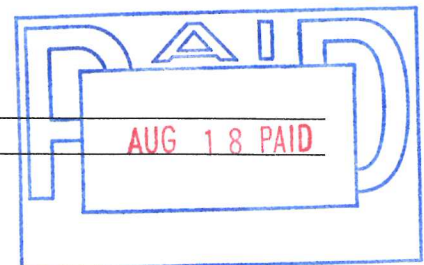
Date Appeal Received: _____ By: _____

Appeal Fee Paid: _____ Receipt No.: _____

Fee:

803 - Planning \$600

(Last revised March 2021)



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

BEFORE THE CITY OF CANNON BEACH, OREGON

In the Matter of the Appeal of the)
Issuance of Building Permit No.)
164-21-000179-DWL for Property) Notice of Appeal
located at 544 N. Laurel Street)
by Petitioners Jeff and Jennifer)
Harrison.)

Petitioners Jeff and Jennifer Harrison ("Petitioners") file this Notice of Appeal regarding the issuance of Building Permit No 164-21-000179-DWL ("Building Permit") for property located at 544 N. Laurel Street ("Property") that was issued by the City of Cannon Beach on August 4, 2021. This Notice of Appeal addresses the requirements of Cannon Beach Municipal Code ("CBMC") 17.88.150. Petitioners timely filed this Notice of Appeal with the City Manager on August 18, 2021, via e-mail in compliance with CBMC 17.88.150. Petitioners also provided the City their \$600.00 filing fee on August 18, 2021.

A. An identification of the decision sought to be reviewed, including the date of the decision.

The City approved the Building Permit on August 4, 2021.

B. A statement of the interest of the person seeking the review.

Petitioners' home is directly across from the City approved Nicholson PUD ("PUD") and from the Property which was issued the Building Permit (the subject matter of this Notice of Appeal). Petitioners have participated in the City's land use process regarding the PUD and have objected to the property owner and City's attempt to overbuild on this property. The Building Permit approved by the City allows a 3,745 sq. ft. single-family detached dwelling with a 664 sq. ft. attached garage, all on a lot with an existing two-story garage. The existing two-story garage structure is 630 sq. ft. (including a 210 sq. ft. loft) and 24 ft. tall. As explained below, the Building Permit is in violation of the City approved PUD and City's Municipal Code and is inconsistent with the character of the surrounding neighborhood. Moreover, the approved Building Permit violates the City's Comprehensive Plan which acknowledges that the City will foster and promote the characteristics of a village that honors the City's physical setting and allows buildings which are generally small in scale and appropriate to their setting.

Based on the foregoing, Petitioners have standing to appeal the City's issuance of the Building Permit.

C. The specific grounds relied upon for review.

Petitioners rely on the following grounds for review of the Building Permit:

1. The Floor Area Ratio (FAR) worksheet calculation used to approve the Building Permit is in error. The line for "loft" is left blank. The existing two-story "garage/loft" contains 210 sq. ft. of floor space that must be counted. If correctly counted, the FAR worksheet would reflect 61.25% coverage violating the 60% maximum FAR specified in CBMC 17.14.040.D. The City must determine that the Building Permit violates CBMC 17.14.040.D and requires no more than 60% maximum FAR.

2. The building plan for the Building Permit proposes a single-family detached residential dwelling with an attached garage. A two-story detached garage already exists on the Property in violation of the PUD and the Cannon Beach Municipal Code in the following particulars:

a. The second garage violates PUD approval condition #16, which states, in part: *"Should any lot contain a garage or carport, it shall be no*

*larger than a two-car garage. ... if **the** garage is detached, then **the** garage may not include a second story of livable space".* (emphasis added). All references to a garage in PUD condition #16 are unambiguously singular and limits each PUD lot to one garage. Since the Property already contains a two-story garage, a second garage violates PUD Approval Condition #16. The City must determine that the proposed attached garage therefore violates Condition #16 and is not allowable.

b. The Property is in the City's R-2 Zone. The Cannon Beach Municipal Code allows a detached single-family residential dwelling, and its accessory uses as outright permitted uses in the R-2 Zone. CBMC 17.14.020. The proposed attached garage to the detached single-family residential dwelling is not allowed as an accessory use under CBMC 17.14.020 and is in violation of the City's Code since the Property currently contains an accessory garage. The City must therefore determine that the proposed attached garage is not permitted. However, if the City determines that the proposed attached garage is allowed as an accessory use in the R-2 Zone, the City must determine that the detached garage on the Property constitutes a zoning violation since it does not serve the primary use of the Property and must be removed.

3. The PUD is in violation of Approval Condition #17 regarding the Living Wall. The City wrongfully approved the Building Permit without requiring that all PUD conditions of approval be satisfied; or that the Building Permit be conditioned on compliance with the PUD Conditions of Approval. Condition #17 required the Living Wall to be a “living wall” installed and maintained by a landscape professional. To date, there is no contract with a landscape professional and no timeline as to when the Living Wall will be installed in compliance with Condition #17. The Building Permit cannot be issued until Condition #17 is satisfied or conditioned to require compliance with Condition #17.

4. The City wrongfully approved the Building Permit because no Homeowners Association (“HOA”) has been formed pursuant to ORS 94.625. During PUD approval, City Council was advised that no private space was being provided, and therefore an HOA was not required. However, the file for this Building Permit indicates that City staff provided calculations showing private space on the Property and that an exclusive-use private easement exists. The Building Permit for this Property cannot be approved until it is brought into compliance with ORS 96.425 and an HOA is formed, or the Building Permit is conditioned on the formation of an HOA.

- D. For a review of a decision by the design review board or planning commission, if a de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.88.180. (Ord. 94-08 § 20; Ord. 90-3 § 18; Ord. 89-3 § 1; Ord. 79-4 § 1 (10.081)).

This provision is not applicable to this Notice of Appeal since it is an appeal of a Development Permit. The City's review of Petitioners' Notice of Appeal shall be heard *De Novo* pursuant to CBMC 17.88.160.

Respectfully submitted.

DATED this 18th day of August 2021.

HATHAWAY LARSON LLP

By: s/ Gregory S. Hathaway

Gregory S. Hathaway, OSB #731240

1331 NW Lovejoy St., Ste. 950

Portland, OR 97209

*Of Attorneys for Appellants Jeff and Jennifer
Harrison*

Jeff & Jennifer Harrison
P.O. Box 742
Cannon Beach, OR 97110

Planning Commission - Cannon Beach
PO Box 368
Cannon Beach, OR 97110

Re: Appeal of Building Permit No. 164-21-00179 (544 N. Laurel Street)

Dear Planning Commissioners,

We first want to thank the Chair for accommodating the date for this hearing due to scheduling conflict.

We also want to thank each of you for your unanimous vote last year to uphold our original appeal of the administratively approved building permit for Lot 1 on the Nicholson PUD. The obviously illegal turret is now removed. Unfortunately, the farcical claims of outdoor living space, and other problems, remain. Hence, this appeal challenging the issuance of the Building Permit.

We applaud the city's decision to pursue the code audit, including the fast-track, to tighten up loopholes being exploited by crafty lawyers, architects, and even city staff. Last year, we heard Commissioner Newton say,

"One of the challenges I have here is back to us ultimately, we have so many areas that we have people for opportunities looking to define to their need I think we need to play offense, I've said it before, and tighten some of these up".

We agree with Commissioner Newton and welcome efforts to limit house sizes and eliminate loopholes in the FAR calculations. Coincidentally, this is largely what our appeal tonight is about.

We are not trying to hold this Building Permit request to future standards. This Building Permit must be judged by current code and the approval conditions of the PUD. That said, this Commission has made its direction clear, and it would be wrong to make or allow discretionary approvals inverse to that direction.

We did not want to file another appeal. These aren't fun, aren't easy, and aren't cheap. Information is difficult to obtain from the city (see our Exhibit 01). But here we are again, having to deal with this never-ending hoax of a PUD. We are again asking you follow both local and state code, use our comp plan as a guide, uphold and enforce the PUD approval conditions which this Building Permit violates, and deny the attempts to overbuild on this property. Additionally, we have seen no meaningful progress or enforcement on the living wall and no enforcement effort on the HOA requirements since our original appeal last year.

We are all tired of hearing about and dealing with the Nicholson PUD. That is the hallmark of a bad deal and a bad decision. The way to move forward is to stop making bad decisions and to enforce what was legitimately approved. We are still not seeing that, so we have more of this. We understand this is unrelated to the bigger topics captivating the city right now (city hall and the tax), but the issues in this

appeal have merit and deserve to be heard. We are asking you to recognize that this bad PUD decision lingers and festers because of the continued string of bad approvals and lack of promised enforcement. It is extraordinarily disappointing to see staff continue to ignore our code and publicly say they don't have time to follow approved orders and conditions of Council. We are dismayed that appeals continue to be required. It would be best for all if there was simply nothing to appeal. It is time to get on the right side of this.

Citizens and other interested parties have contributed over \$30,000 in hopes of making the best of this PUD. We know the city has spent a lot more, but none of us should have had to spend private funds on what was clearly a terrible idea. It has worked out well for our land use attorney, who continues to log billable hours for this bad mistake every time another mistake is made.

We also wanted to mention that even though Oregon's land use laws are supposed to be open and accessible to all, we have not always found this to be the case. This is not a level playing field and citizens are often forced to hire attorneys. Here are 2 personal examples:

1. On 3/1/2016, Nicholson's attorney submitted documents to Council with undisclosed, significant, changes. We didn't have an attorney to speak up and object because we hadn't expected this could happen. Our city land use attorney was silent, and now city staff claims everyone signed off on the private-space easement.
2. On 1/14/2020, during a council work session, we asked how the Harding accessory structure garage had been approved on a lot the Hardings didn't own because our code clearly stated, ***"'Accessory structure' or 'accessory use' means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use."*** (emphasis added)

Mr. Kabeiseman and Planner Adams said it was "ok" that the Harding accessory structure was not on a lot owned by the Hardings because the future Najimi house and the Harding garage/loft/studio "were both residential". As ridiculous as that code interpretation is, the issue was dropped.

During our original appeal of the building permit for this property, Commissioner Kerr stated, "I think the applicant has done everything they can to maximize development on this lot". We agreed with Commissioner Kerr then and still see this to be the case. Even more disappointing is they are doing it with staff's help at a time when our elected and appointed decision-makers are trying to move in the opposite direction. Our hired staff appears very much to be out-of-sync.

It is also important to re-state that we are not arguing Mr. Najimi's right to build a house on his lot. He bought a lot; he gets to build a house. But he shouldn't be allowed to overbuild far beyond the intent of what was approved here and what our code allows. He was surely provided a copy of the approval conditions and should have known only one garage is allowed, which his lot already has. His architect (Mr. Vonada) and Planner Adams should have recognized and counted all the floor space in the existing garage.

We are still a long way from the 4 small cottages that were promised. This is still an attempt to build a 3,745 sq ft home, including a 2- car garage on a 7,500 sq ft lot that already has an existing 24 ft tall, 2 story, 630 sq ft garage/loft/studio. As we pointed out previously, if this large house is built as planned, most of the rest of the trees will be cut down, leaving the lot almost fully covered with buildings and

driveway. There would be no usable green space at all. None. There would only be one small triangle of green in the northeast corner, but it is unusable because of the 12 ft concrete wall and fence. This would not fit the character of our rustic, gravel-road neighborhood any more than the ugly, industrial, concrete wall.

This appeal was required for the following reasons:

1. This is still an attempt to overbuild. It is the now-familiar trick of calling something by a different name to avoid the rules. We've seen this too often on Nicholson's small PUD: it's not a subdivision, it's a PUD; it's not a studio, it's just a garage; it's not a 2nd story, it's a loft; it's not a loft, it's just storage.
2. We continue to see local and state code violations. The floor area ratio favorably omits obvious floor area, a 2nd garage isn't allowed, and an HOA is required.
3. We have seen no meaningful progress on the promised and conditioned "living wall". There has been no enforcement (only "monitoring"). This wall went up 4 or 5 years ago and still looks like a home-grown effort using the wrong plants and showing far too much ugly concrete. Planner Adams continues to say it will take a few more years. It has been 4 or 5 years already and was supposed to be one.

Our detailed objections to the issuance of the Building Permit follow.

1. Floor Area Ratio calculation.

The existing garage/loft/studio never should have been built. However, it was approved by Planner Adams, and now the floor space must be counted properly. Unbelievably, we still do not see this happening.

When asked what the structure was, Planner Adams originally told this commission, "it's just a garage". When was asked about the building plans, which clearly show the 2nd story labelled as "2nd Floor", Planner Adams told both Planning Commission and Council the 2nd story was, "just a loft", and that this 2-story building is a single story building.

The irony here is thick. As stated, approval condition #16 of the Nicholson PUD approval prohibits 2-story garages. Planner Adams somehow approved it anyway by calling the 2nd story a loft.

The line for "lofts" on the Floor Area Ratio (FAR) worksheet was left blank. The 210 sq ft floor area for this space isn't being counted as a 2nd story nor is it being counted as a loft. It just isn't being counted. See our Exhibit 02.

We reviewed *CBMC 17.04.283 Gross floor area*.

*"Gross floor area" means the sum, in square feet, of the gross horizontal areas of **all floors** of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area **shall include**:*

1. **Garages** and carports.

2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city's building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building's foundation.

In addition, the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area. (emphasis added)

There are no exemptions for "lofts" or "storage areas" in CBMC 17.04.283. The "loft" is not an attic. This is floor area and must be counted as floor area in the Floor Area Ratio calculation. Planner Adams made a mistake to exclude the "loft" floor area in of the Harding garage/loft/studio in the FAR calculation for Lot 1.

Last year, Council unanimously disagreed with both Building Official Butler and Planner Adams by declaring this same "loft" space habitable in Council's original signed order for APP 20-01:

"The Council does not support the Cannon Beach Building Official and Community Development Director's opinion that the 'storage loft' area, although not accessible by stairs, isn't to be considered similar to a 'sleeping loft' and thus, to be included in the habitable space calculation, bringing the total for Lot 1 to 3,300 SF.

Ultimately, Council was forced to remove this language because of two unintended consequences: 1. The language violated approval condition #16 of the Nicholson PUD (no habitable garages), and 2. the owners of the building conveyed intentions to summarily move someone in.

Council clearly wanted to declare the loft habitable based on the human-comfort accoutrements that are built out there: 100K BTU furnace, shower, toilet, heated floors, skylights, picture windows, electrical, gas, washer/dryer hookups/top-out, and over-sized ceiling fan.

How do you go from Council declaring 210 sq ft of floor area as habitable to the Planner not even counting this same space as floor area? You don't. It is just not plausible nor permissible. This is an excellent example of what the Planning Commission and City Council are trying to prevent with the code audit and fast-track option.

We reviewed an email sent in July of this year from Planner Adams to Mr. Vonada (architect). See our Exhibit 03. This email details Planner Adams' response to building plans submitted by architect Vonada for the NE Lot 4 of the Nicholson PUD (purchased by the Hardings in 2019). Here we again see an attempt to gain approval for "uninhabitable/non-counted" space that could clearly be built out/converted as livable. In this email, Planner Adams says,

*"...I've not included the attic [in FAR] but **will require all windows, skylights and electrical outlets be removed from the attic space, so that it isn't habitable space or convertible to habitable***

space. *The attic space must remain unfinished, without direct access or natural light and accessed by an opening no larger than 36" x 36." (emphasis added)*

We compared the physical differences between the similar floor space for the existing "loft" (in the Harding "garage") on Najimi's Lot 1 with the proposed "attic" space for Lot 4 submitted by the Hardings. We then compared how the two similar spaces were included/excluded from the FAR calculation by Planner Adams.

NOTE: see pictures of the Harding garage/loft/studio, our Exhibits 04, 05, 06, 07, and 08. Notice the skylights, windows, and electrical outlets.

	Lot 1 (Mr. Najimi) Existing Harding "loft" NOT COUNTED IN FAR	Lot 4 (Hardings) Rejected plans for "attic" NOT COUNTED IN FAR
Skylights	Allowed	Must be removed
Windows	Allowed	Must be removed
Electrical	Allowed	Must be removed
Size of accessible opening	20 ft wide, open	36"x36"

In summary:

- Lot 1, existing loft - Planner Adams is excluding the floor space in the FAR calculation even though it DOES HAVE skylights, windows, and electrical
- Lot 4, proposed attic - Planner Adams excluded the floor space in the FAR calculation, but ONLY after REMOVAL of skylights, windows, and electrical from the plans (because it could be converted to habitable).

The 210 sq ft of floor area in loft space of the existing Harding garage/loft/studio must be counted in the FAR calculation for Lot 1. Storage areas don't have skylights, windows, electrical, and wide-open access. This is floor area.

If the existing loft in the Harding garage/loft/studio on Lot 1 is properly included, the corrected FAR worksheet calculation results in 61.25%. This violates the R2 maximum of 60%, as per CBMC 17.14.040.D.

This Building Permit approval for Lot 1 must be reversed until such plans are submitted that do count the existing loft in the FAR calculation and do not exceed the 60% maximum.

2. Two garages on any PUD lot are prohibited.

The existing garage/loft/studio should not have been approved or built for the following reasons:

- a. The private-space, exclusive-use easement was not disclosed to council and was incorrectly produced outside of city process. This is a PLANNED unit development. It should not have been allowed or accepted.
- b. The structure was built in the required rear yard of lot 1 (to the west, see our Exhibit 14) and was therefore required to be limited to 12 ft in height and 120 sq ft total area. This building is 2-stories, 24 ft tall, and 630 sq ft total area.
 - i. NOTE: In his 1/8/2020 report to Council, City Mgr. St Denis acknowledged this required limitation but failed to specify where the required rear yard was designated for Lot 1. We have asked Planner Adams multiple times where the required rear yard is for Lot 1 but have never received an answer.
- c. The structure was built on a lot with different ownership and is in no way “incidental and subordinate to the main use of property” on Lot 1. This is a clear code violation.
- d. The structure was built on a vacant lot.
 - i. NOTE: On 1/14/2020, Planner Adams told Council he was surprised CB Planning Commission approved a garage on a vacant lot soon after he came and that he advised against the practice. However, because of Planning Commission’s approval in the case he cited, he approved the Hardings’ garage/loft/studio on a vacant lot. See our Exhibit 09.
 - ii. NOTE: Councilor Ogilvie was forced to tear down his garage when subdividing his lot resulted in a garage on a vacant lot.
 - iii. The case cited by Planner Adams is not comparable. Planner Adams made a mistake.
- e. No geo-tech report was done despite PUD approval condition #15 requiring one prior to issuance of a building permit. Planner Adams said this was only for houses. However, the approval condition does not differentiate between houses and accessory structures. It says, “A final geotechnical site investigation report shall be prepared for each lot prior to the approval of building permits”. Planner Adams made a mistake and did not require a geo-tech report.
- f. The structure was originally approved using an incorrect (preliminary) version of 7 PUD approval conditions presented by the applicant. Planner Adams did not question them or check their validity. He made a mistake.
 - i. NOTE: He did not, “wisely go to the files to check” as the City Manager told the Planning Commission. Planner Adams accepted them on faith without checking and issued a permit for a 2-story garage with studio apt above. He then discovered his error while investigating my driveway damage complaint. After discovering his error, Planner Adams then said the structure could not be 2 stories but still approved it as 2 stories by calling it a “loft” and still allowed it to be built oversized in the required rear yard of Lot 1.

Planner Adams approved the existing garage/loft/studio, and it was built. Now, the floor area must be properly counted, and its existence acknowledged as the single allowed garage for Lot 1. Approval condition #16 unambiguously refers to a single garage on each lot in the PUD. One garage.

*"Should any lot contain **A** garage or carport, **IT** shall be no larger than **A** two car garage. ...if **THE** garage is detached, then **THE** garage may not include a second story of livable space". (emphasis added)*

There are 5 "garage" references in this condition, and they are all in the singular. This unarguably demonstrates the intent to allow only one garage on any lot in this PUD. This lot already has one garage. A second garage, which is included in the submitted plans for this permit on Lot 1, violates this PUD approval condition.

Commissioner Newton raised this issue during your deliberations on our original appeal and stated that he read approval condition #16 as allowing only one garage per lot. See our Exhibit 10.

When your unanimous decision to uphold our appeal was then appealed to Council, Council discussed the topic as well. During the 12/1/2020 Council hearing, Councilor McCarthy also asked Planner Adams about the single garage allowed by approval condition #16. The full text of that exchange is included in our Exhibit 11 but we found this excerpt revealing:

Councilor McCarthy: But if it's a double car garage, you have a double car garage in the house, attached to the house...

Planner Adams: Right.

Councilor McCarthy: ...and you have another double car garage on the property, and isn't it limited to just one double car garage?

*Planner Adams: Like I said, I did not make that decision, it says, and I just quoted it, it says that, should any lot contain a garage or carport it shall be no larger than a 2 garage. It's talking about garages, it doesn't state you are limited to one 2 car garage. **It's "a" garage. "A". Not "the"**. I'm sorry, but that's what we're down to when we read these things. And, uh, yeah, I don't know if it's, I wouldn't call it sloppy, it's a different reading and a different intent. And so I, I understand, the, interpretations of these things I have to do it every day. (emphasis added)*

This is simply incorrect. Approval condition #16 does reference "the" garage and it does so twice. Planner Adams made a mistake when he claimed the approval condition does not state "the garage". Planner Adams made a mistake when he approved the Najimi Building Permit for Lot 1 with a 2nd garage that is not allowed. Lot 1 already has a garage/loft/studio; therefore a 2nd garage is not allowed.

This piece from our Comp Plan is being repeated often these days, and it needs to be referenced here.

*"Cannon Beach will continue to be a small town where the characteristics of a village are fostered and promoted. Both the physical and social dimensions associated with a village will be integral to Cannon Beach's evolution during the next two decades. The elements of the town's physical form which the plan will foster are: Development that honors the city's physical setting. A compact development pattern where various land uses are readily accessible to residents and visitors. A distinct edge to the town which defines the separation of urban from rural and natural resource uses. Mixed land uses which promote the livability of the town. **Buildings that are generally small in scale and appropriate to their setting.**" (emphasis added).*

A 3,745 sq ft 2-story house, on a 7,500 sq ft lot that already contains an existing 2-story, 630 sq ft garage/loft/studio, with no usable green space at all, is NOT generally small in scale and appropriate to its setting. This would not fit the character of our neighborhood.

During Council deliberations of our original appeal, Councilor Benefield counselled Planner Adams re: allowing overbuilding on this PUD, saying,

“That wasn’t the intent, Jeff. We were painted a picture of this nice green area, preserving trees, a green wall, cottages, and preserving one historic building. None of that happened. And now we are playing games, by, having an easement and allowing somebody to build a garage and uh...it’s not a loft, call it a loft if you want to, but it was designed and built as living area. And if you remove the stairs and say no longer is it livable, is foolish. Nobody’s gonna believe that. So we now have five potential buildings there on that lot, or that PUD. So, understanding your position, you’re looking at literal words that are there, with a very, very strict interpretation. The Planning Commission looked at what was understood by our Comp Plan, understood by the nature of the community, understood by the hearings that went on when that PUD was approved, and I’m one of those who got snookered because I didn’t see that teeny tiny print on the last day that PUD was presented for approval. It was presented as though here’s the final we’ve all discussed it, we’ve all approved it, and here it is. And yet it was not the same thing and yet it got signed. OK, we screwed up. But I’m not willing to continue to perpetuate a con job like that. That’s my discussion.”

Yet, we still see an administratively approved attempt to overbuild through favorable FAR exclusions (loft not counted) and favorable interpretations of approval conditions (allowing a 2nd garage).

This Building Permit approval for Lot 1 must be overturned until plans are submitted that do not include a 2nd garage on this lot or the existing garage must be removed.

3. Ugly concrete wall is still not a “Living Wall”.

Much has already been said about this ugly, industrial-looking, 125 ft long, 12 ft tall, interlocking concrete abomination. It does not fit the character of our neighborhood, or any neighborhood in Cannon Beach.

Approval condition #17 of the Nicholson PUD reads,

“...the applicant shall provide to the City an executed contract with a landscape professional responsible for the installation and maintenance of plant materials in the wall and shall provide a timeline for the establishment of plantings on the wall. If plants are not successfully established within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met.”

As we have repeatedly shown, Nicholson submitted, and the City accepted, an unsigned estimate from an unlicensed person who mows lawns (not a landscaping professional) as compliance for PUD approval condition #17. An executed contract with a landscape professional was required. Please see our Exhibit 12. The wall is still an ugly eyesore. Recently, more sword ferns were planted, and Planner Adams went to review the status. Unfortunately, this is still a homegrown effort and looks like one. No landscape professional has been contracted. It is in no way a true “living wall”, and we still see a lot of concrete. We will see even more when the plantings diminish during winter.

This PUD is out of compliance on this issue, and we feel no building permits should be issued until a landscape professional is hired and the wall is “all green” with no concrete showing as Nicholson promised. This was the intent of approval condition #17 and the City is supposed to have enforcement authority.

We recently listened to some of the dialogue re: the “living wall” during the final approval hearing of the PUD and have transcribed it for you. Mr. Kabeiseman and Mark Barnes assured Councilors that the City would have enforcement authority if the wall didn’t turn out as promised. See our Exhibit 15. Here are a few excerpts:

Planner Barnes: While they are talking about it, we as staff actually have some enforcement authority there anyway...

Councilor Vetter: Yeah, we do that with businesses...

Planner Barnes: Yeah, if their landscape plans is failing for instance we have the ability to enforce that anyway and the 4 owners, send the 4 owners a letter saying you need to meet these requirements, that means fixing the landscaping for instance.

Mr. Kabeiseman: And, so, certainly at the time of development the owners response will....getting it going. When they get sold off, assuming there are 4 future owners, each of them would have some level of responsibility for doing it and again this is something where we want to make the city a benefitted party that they could actually force the issue.

Planner Barnes: There’s 4 owners there, whatever this is going to be called, send a letter to all 4 owners...

Planner Barnes: Any landscape failure there that is part of this approval would be subject to enforcement from our end.

Last month, we listened to the audio for the Planning Commission’s 9/23/2021 discussion on the recent monitoring report done by Planner Adams. When the Chair of your Planning Commission, who is a subject matter expert, says, “sword ferns aren’t going to cut it”, what more do you need to hear?

It is time for the city to enact the enforcement options our land use attorney and then-Planner assured us the city would have. Planner Adams made a mistake when he declined to enact the enforcement option promised by Mr. Kabeiseman. The building permit approval for Lot 1 should be overturned until the PUD is brought into compliance on this issue.

4. No required Homeowners Association.

No HOA (Homeowners Association) has been formed for this PUD and therefore the PUD is in violation of ORS 94.625:

(1)Except as provided in subsection (2) of this section, not later than the date on which the first lot in the planned community is conveyed, the declarant shall:

(a)Organize the homeowners association as a nonprofit corporation under ORS chapter 65;

At the local level, CBMC 17.40.030.G.2 required an HOA, “[w]henver private outdoor living areas is provided”. During PUD approval, Council was told no private space was being provided and Council subsequently granted an escape from forming an HOA.

It is now widely known the Harding’s exclusive-use easement DOES constitute private space on Lot 1. The lot owner himself, Mr. Najimi, can be cited for trespass if he parks on this area of his own lot.

No escape from ORS 94.625 should be allowed. No building permits should be approved on this PUD until it is brought into compliance with ORS 96.425. As early as Nov 2019, Commissioner Newton asked how a private-space easement was compatible with Council’s granting of an escape from an HOA based on the promise of no private space, but as far as we know, no coherent answer has been provided by Mr. Kabeiseman. See our Exhibit 16.

We have heard Planner Adams say the HOA was delayed by the PUD lot owners because of our original appeal of the Najimi permit for Lot 1. We don’t see how the issues are related. The lot owners don’t get to decide when they want to follow OR state law. ORS 94.625 is clear the HOA, “SHALL be organized not later than the date on which the first lot in the planned community is conveyed”. This occurred in 2018. Planner Adams made a mistake when he allowed the PUD owners to dictate when they would comply with state law.

When defending the PUD’s shared/common outdoor living space requirement, Planner Adams even provided calculations showing the private space he claimed came from Nicholson’s engineering firm. How can this private space be openly acknowledged by the Planner concurrently with Council’s granting an escape of an HOA based on no private space?

In May 2021, I emailed Mr. Kabeiseman and again asked about the discrepancy between what Council agreed to, based on a now debunked promise of no private space vs. state law requirements of ORS 94.625. See our Exhibit 13. He responded that even if Council made “a mistake” in 2016, it was too late to fix it now. He recommended that I contact an attorney, so I did.

The Building Permit approval for Lot 1 should be overturned until the PUD is brought into compliance on this issue.

Summary

For the above reasons, we respectfully request that you uphold this appeal and overturn this Building Permit until:

1. The FAR worksheet includes the 210 sq ft of existing “loft” floor area and the FAR ratio is at or below the 60 % maximum for R2.
2. The 2nd garage is removed from the building plans, or the existing garage is removed.
3. The “living wall” is made a true living wall, all green with no concrete showing (as promised), by hiring a landscaping professional for installation and maintenance of the plantings on the wall and a timeframe for establishment of plantings.
4. The required HOA is organized as per ORS 94.625.

Thank you for your continued attention to this seemingly never-ending problem and thank you for your service to Cannon Beach.

Jeff & Jennifer Harrison
539 N Laurel
Cannon Beach, OR 97110

EXHIBIT LIST

1. Email, Harrison to St Denis re: difficulties obtaining information.
2. FAR calculation worksheet, Lot 1, showing the line for “loft” blank.
3. Email, Adams to Vonada, requiring skylights, windows, and electrical to be removed in order for attic space to NOT be counted in FAR for submitted plans, Lot 4, Nicholson PUD.
4. Picture, Harding “garage/loft/studio”, Lot 1 (Najimi), Nicholson PUD, showing windows and skylights in loft.
5. Picture, Harding “garage/loft/studio”, Lot 1 (Najimi), Nicholson PUD, showing windows, skylights, and electrical in loft.
6. Picture, Harding “garage/loft/studio”, Lot 1 (Najimi), Nicholson PUD.
7. Picture, Harding “garage/loft/studio”, Lot 1 (Najimi), Nicholson PUD.
8. Picture, Harding “garage/loft/studio”, Lot 1 (Najimi), Nicholson PUD.
9. Transcription, 1/14/2020, CC work session, discussion re: allowing accessory structures on vacant lots.
10. Transcription, 9/23/2020, PC discussion re: single garage allowed per lot, original appeal of Najimi Building Permit, Lot 1 (Najimi), Nicholson PUD.
11. Transcription, 12/1/2020, CC discussion re: single garage allowed per lot, appeal of Planning Commission overturn of administrative decision to approve Building Permit, Lot 1 (Najimi), Nicholson PUD.
12. Document, unsigned estimate from person who mows lawns, accepted by City as compliance for Nicholson PUD approval condition #17.
13. Email exchange, Harrison to Kabeiseman and Adams, noting discrepancy between escape from HOA based on promise of no private space and existence of private-space easement.
14. Diagram showing required rear yard and Harding garage/loft/studio placement on Lot 1 (Najimi), Nicholson PUD.
15. Transcription, 3/1/2016, City Council, discussion re: city enforcement authority for failure to comply on “living wall”.
16. Transcription, 11/26/2019, Planning Commission, Commissioner Newton asks about discrepancy between escape from HOA based on promise of no private space and existence of private-space easement.



Jeff Harrison <jshpub1@gmail.com>

RE: Information-No response, unavailable

Jeff Harrison/GMAIL <jshpub1@gmail.com>

Tue, Sep 21, 2021 at 12:17 PM

To: "Bruce St. Denis" <stdenis@ci.cannon-beach.or.us>

Cc: risley@ci.cannon-beach.or.us

Bcc: berntj@ohio.edu, lisacmd1@gmail.com

Bruce,

This is the follow-up email I promised to send during our 8/9/2021 conference call with Councilor Risley regarding the difficulties I have experienced obtaining public information from City Hall in Cannon Beach.

First, Jeff Adams did call me 8/9/2021 as a result of my 8/6/2021 email. He followed up with an email and gave me links to the Oregon e-permitting system and the CB "Public Notices" page, neither of which I knew about. I appreciated the call and the email. He told me the Najimi permit had been approved 8/4/2021 (5 days after approval).

The online tools are encouraging. Self-serving information frees up staff and can work better for everyone if they work. That said, they are not the entire answer.

1. Re: the CB Public Notices page, the Najimi building permit for Lot 1 of the Nicholson PUD is not listed. Shouldn't it be there?
2. The Oregon e-Permitting system has some quirks, but once you learn those, it is helpful to know when a permit has been approved.
 - a. Obviously timely input is critical because the 14 day appeal window is so short.
 - b. There are several abbreviations that are not explained (as far as I can tell).

I will certainly begin using the online tools. But obtaining an approved permit is only part of the need for information from City Hall. To properly appeal a decision, one must know what was done incorrectly. This requires a great deal of digging and analysis. That takes time and access to the information pertaining to the decision. It takes additional time if one is forced to engage legal counsel. Please consider the following experiences from the side of your "customers".

It is important to differentiate between asking a question and requesting a document.

Questions

I believe we have a realistic expectation of having simple questions answered in a reasonable period of time. You agreed during our call but this has not been my experience much of the time. Consider the following:

1. I spoke to Katie Hillenhagen on 7/29. She told me the Najimi permit had not been issued, but would be the following week.
 2. The following week (8/2 – 8/6). I emailed Jeff Adams every day, asking, "Have you approved the Najimi building permit?" I received no response.
 3. The permit was approved Wednesday, 8/4/21.
 4. I did not learn of the approval until Jeff Adams told me on 8/9.
-
5. Because the appeal window is only 14 days, I lost 5 days (or 36%) of my appeal window. When I pointed this out, Jeff Adams said, "You've still got plenty of time to appeal!" I responded, "Do you know my schedule?"
 - a. While I was able to get the appeal in on the very last day of the window, those lost days did cause me a great deal of difficulty. I barely made the deadline. I left town on 8/16, the last day of the appeal was 8/18.
 - i. I essentially had 4 business days to work with (8/10 – 8/13). When working with an attorney, this short amount of time is very difficult.
 - ii. I had to work on this during a very special vacation with my wife. I had to travel with my computer and bag when I was already overburdened.

This is not an isolated event. I have other examples where emails are simply ignored. I do understand that simple questions are different than complex ones. The bottom line is it is are hard to get answers to even simple questions.

Either the appeal window should be expanded or yes/no questions should be answered sooner. Yes, now that I know about the Oregon e-Permitting website will be somewhat of a help. Again, the permit is not on the CB Public Notices website. But simply knowing when a permit is approved doesn't mean you have the pertinent information to evaluate whether an appeal is warranted.

Because I was not receiving responses from my daily emails the week of 8/2 through 8/6, I went to City Hall the morning of 8/6 (Friday). I asked for Jeff Adams, Jennifer Barrett, Katie Hillenhagen, and yourself. Not one of you was there. I asked if anyone could tell me if the Najimi permit had been approved. Not one person could help. Finally, Jennifer Barrett did emerge and said she could not help and that no one else could, either. I asked where Jeff Adams was, and she told me he might be at lunch. I asked if she could call him, and she said no, she would not want to interrupt his lunch. I pointed out it was after 1:00pm, so lunch was likely over, and she said she didn't feel comfortable calling him because I had already emailed him. I left with no answer. This was a very frustrating and fruitless visit.

Later that same day, I returned to City Hall. Again, no one was there who could answer the question, "has the permit been issued?" Jennifer Barrett again came out, and again said she had no answer, but would look into on Monday. As I said, Jeff Adams called on Monday. I lost 36% of my appeal window despite rather extensive efforts to work with City Hall (both in-person and via email) to obtain a simple answer to a simple question. When the clock is ticking, your lack of responsiveness is material. Our city hall is a pretty small world. It is hard for me to believe some of the people I spoke to did not know the permit had been approved.

Documents

I understand the need for the PRR form to request a document. However, this process is not without flaws.

1. Jennifer Barret told me staff answers questions, but when a document is requested, the PRR form must be used. In contrast, Jeff Adams has frequently required the PRR form to be completed/submitted when a simple question is asked. This takes time is frustrating to get two different answers to the same issue. It also delays access to the needed information. Jeff Adams has inferred we are asking for preferential treatment.

a. Solution: Answer simple questions in a timely manner. Require PRR's for actual records/document requests.

2. Another frustrating obstacle to obtaining information is knowing what documents the City has in order to complete a PRR. I don't know what documents you have and you won't tell me. It is often a guessing game. When I have guessed wrong, Jeff Adams has chastised me, saying, "we can't produce documents we don't have".

a. If I ask what documents you do have, so that I can properly request them in via PRR I am often rebuffed or ignored. Staff will not tell me what documents are available so I have no way of knowing what to request.

b. One example involves a PRR I submitted recently. I requested all emails pertaining to the submitted plans for Lots 1 & 4 of the Nicholson PUD. I was provided a single email (Adams to Vonada). In this email, Jeff Adams referenced average elevation numbers. I asked the source of elevations numbers but received no answer. I remembered Adams said a new survey would be required because the topography had changed when the "living wall" was built) so I guessed that a survey had been done. I filled out a PRR requesting the survey and was chastised, "we can't provide documents we don't have".

i. NOTE: That PRR resulted in a \$550 estimate. Instead, I opted to visit City Hall to review documents and discovered that Adams isn't appearing to require a new survey after all and was using numbers provided to him on a diagram from the architect. This will be an issue later.

c. Solution: Process PRR's that request a list of what documents are available. This way the public can choose what to request from a list of documents you actually have without guessing. I have requested this in the past and the request was refused.

3. As I mentioned, at 14 days, the appeal window is very short. If an attorney needs to be retained it is very difficult to do so in this timeframe, especially if documents are not provided timely.

a. It is important to acknowledge the window allowed to provide documents (assuming I have guessed correctly) is about the same as the appeal window. This means that by the time documents are received and evaluated the appeal window can be past.

b. Solution: Extend the appeal window from 14 days to 21 or 28 days.

4. No notice is given. According to current code, I am notified if someone cuts down a tree close to our house, but not if they are approved to build a large house.

a. NOTE: I have tried asking Jeff Adams to let me know when a permit is approved. Last year, he obliged. This year, he refused and said he could not do that. This results in daily PRR's.

b. The Najimi permit approval does not appear on the City's Public Notice website.

i. Example: If you receive a PRR on the 1st of the month, but the requested permit is not issued, the PRR is not fulfilled. If the subject permit IS approved the next day, I have to have a PRR in on the 2nd in order for it to be fulfilled. Again, with a short 14 day appeal window, every day is critical.

c. Solutions:

i. Post all city decisions on the Public Notice webpage.

ii. Allow user "alerts" to be created so that automatic notices are emailed to the user when permits/decisions that match keywords and/or categories are posted.

1. Example: If it was possible for me to set up an alert for the word "Laurel St", I could be notified via email that a new permit/decision matching my keyword had been posted.

Jeff Adams has accused me of trying to use the PRR process for questions, stating I need to, "use the PRR process like everyone else". I am not asking for special treatment. I'm just trying to get timely answers and information.

I am fully aware things will improve dramatically when the city's document imaging systems are fully implemented. But they aren't today, and buildings are going up and trees are coming down. Even then, staff needs to be more responsive and answer simple questions on a timely basis and be more available.

Jeff

DEPARTMENT OF PUBLIC WORKS

163 E. Gower Street, Cannon Beach, OR 97110
Phone (503) 436-2045, Fax (503) 436-2050

Plan Review

NAJIMI RESIDENCE

544 N Laurel (LOT 1)

51019AD-7000 / PR 20-1

City Code, a Right-of-Way Use Permit is required for placement

Appendix
Worksheet
FLOOR AREA
RATIO

NAJIMI LOT#1

2/18/20

7/15/2021

Appendix

Worksheet - Floor Area Ratio

- I. The maximum FAR in the RL, R2, RAM, R3 and RM zones is .6.
The maximum FAR in the RVL zone is .5.
The maximum FAR in the RL zone for a lot 5,000 square feet or less is .6.
The maximum FAR in the RL zone for a lot 5,000 square feet or more is .5.

II. Calculation of FAR

A. Lot Size:

7500 sq. ft. (A)

A. Gross Floor Area: (see definition below)

1. Basement

2. 1st Story

3. 2nd Story

4. Loft

5. Garage or Carport

6. Habitable Accessory Structures (e.g. accessory dwelling)

sq. ft.

1214 sq. ft.

1376 sq. ft.

sq. ft.

1204 sq. ft.

420 sq. ft.

630-SF DRIVING GARAGE

TOTAL

4174 sq. ft. (B) 4384 SF

C. Divide Total (B) by (A)

.56 FAR OK .58

Definition of Gross Floor Area

OK 7/15/2021

Gross Floor Area is the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings.

Gross floor area includes:

- ❖ Garages and carports
- ❖ Entirely enclosed porches
- ❖ Basement or attic areas determined to be habitable by the City's Building Official, based on the definitions in the building code.
- ❖ Uninhabitable basement areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the buildings foundation.
- ❖ All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than 15 feet shall be counted as 200% of that floor area.

Jeffrey Adams

From: Jeffrey Adams
Sent: Friday, July 09, 2021 1:18 PM
To: David Vonada
Cc: Katie Hillenhagen; Alton Butler; Bill Kabeiseman
Subject: Harding & Najimi
Attachments: Att.01.pdf; 210708.2021-06-21_BOVET PERMIT SET REVISED.pdf

David,

I wanted to send an email documenting my first review of the Harding-Bovet Lot 4 plans. I calculated the average existing grade to be 53.44 $((54.0+43.5+56.5+59.75)/4)$, resulting in 77.44' maximum average building height and 81.44' as maximum peak building height, which differs from the Max. Building Height indicated on the plan-set 82.53'.

I also want to clarify some terminology, which will affect other decisions that follow. I've copied Condition #3 from the Cannon Beach Preservation Planned Development (PD) Subdivision and definition of 'gross floor area' from the Cannon Beach Municipal Code for reference.

The terms of the conditions are built around 'habitable space,' which is not the same thing as 'gross floor area.' These terms are not interchangeable and have resulted in many issues in the past few years. Gross floor area is utilized in the determination of Floor Area Ratio (FAR) yet habitable space is utilized in the total square footage of habitable space, a key component in satisfying the conditions of the PD. For this property, the Harding's Lot 4, my calculations show a gross floor area of 1,959 SF, still well below the allowable FAR of 2,783 SF, but quite different than what your FAR sheet provides (1,223 SF). The reason for the discrepancy is that I've included the 'crawl space' area, which meets the definition of CBMC 17.04.283(4) and the vaulted space above the 'Living' area, according to CBMC 17.04.283(5). On that note, I've *not* included the attic but will require all windows, skylights and electrical outlets be removed from the attic space, so that it isn't habitable space or convertible to habitable space. The attic space must remain unfinished, without direct access or natural light and accessed by an opening no larger than 36" x 36". Further, the crawl space to the garage is currently showing a 3' x 5' access door, while the access door to the residence crawl space is shown as 3' x 6'8" yet I will require both to be held to no more than openings of 3' x 5', to remain unfinished (rat-slabbed concrete) and without direct access or natural light.

This leaves Lot 4, according to my calculations with a habitable space calculation of 600 SF, with 1,959 SF of gross floor area.

Please let me know if you have any questions.

Best,
Jeff

Conditions from the PD

3. The total square footage of habitable space on the site shall not exceed 9,000 square feet. Habitable space includes the enclosed areas in residences including all floors of living space and excludes driveways, decks, porches, garages, and uninhabitable accessory buildings. Unfinished attics, crawl spaces, storage areas and similar spaces are not habitable space. Sleeping lofts, detached accessory sleeping quarters, fully enclosed sun rooms, and hallways are habitable space. The habitable spaces shall be distributed initially to allow 2,000 square feet to Lot 1, 3,300 square feet to Lot 2, 2,700 square feet to Lot 3 and 1,000 square feet to Lot 1, 3,300 square feet to Lot 2, 2,700 square feet to Lot 4. Those allocations may be amended by future owners of the lots, but in no case may any amendment allow the total square footage of habitable space on the site exceed 9,000 square feet.

17.04.283 Gross floor area.

"Gross floor area" means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.
2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city's building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building's foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area. (Ord. 03-7 § 3 ; Ord. 93-3 § 1; Ord. 90-11A § 1 (Appx. A § 1(1)); Ord. 86-16 § 1(37); Ord. 86-10 § 1(37))



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.

EXHIBIT 04

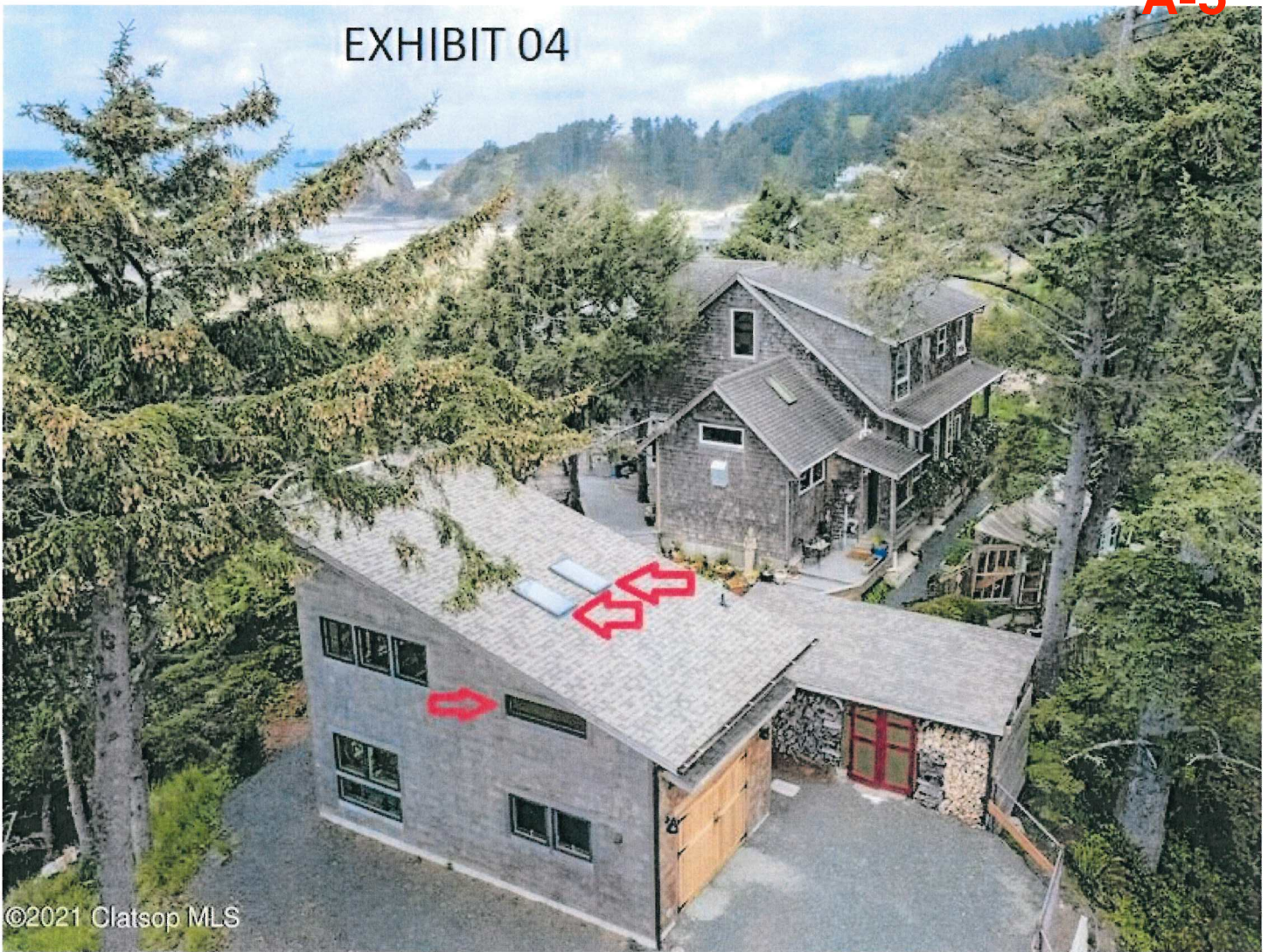


EXHIBIT 05



EXHIBIT 06



EXHIBIT 07





01/14/2020 – City Council Work Session discussion re: Harding “garage” on Lot 1 of the Nicholson PUD.

1:09:00 mark

COUNCILOR OGILVIE: So Jeff, accessory structure is allowed just in this Planned Unit Development?

PLANNER ADAMS: You mean across the city?

COUNCILOR OGILVIE: Yes.

PLANNER ADAMS: You can have garages anywhere, that’s what an accessory structure is.

COUNCILOR OGILVIE: Can you have one on a lot with no other structure involved with it?

PLANNER ADAMS: Yes.

COUNCILOR OGILVIE: My recollection of that is that is not the case. That you cannot build a garage on a lot...

PLANNER ADAMS: I can bring some that for you because we had, uh, Mark Barnes in one of our very first meetings we had I think it was maybe a November meeting I came on board that month and uh and I believe that’s one of the first questions I had because we had one that came before the Planning Commission and the Planning Commission uh approved this accessory structure, granted the person owned 2 lots in the subdivision that were side by side, adjoining lots, but still, he put an accessory structure on the 2nd lot and I said, you know, in many jurisdictions they don’t permit that, but uh, he said, well we traditionally allow that if they stay within the lot dimensions so that the primary can be built within the conformed use. So that’s not to say that that’s traditionally done, I haven’t found that to be the case, but that’s what they’ve done, the Planning Commission reviewed it and approved it, they put a deed restriction on it and I think that was under my recommendation to put a deed restriction that said if this is ever sold, it is one piece, but I don’t think they had done that prior, but uh...that’s my recollection of all that.

COUNCILOR OGILVIE: I will use my own property as an example. I subdivided my property before I moved in, and on one part of the property there was a garage. Once that was subdivided the garage portion had to come down in Reinmar’s interpretation because Cannon Beach does not allow accessory structures on lots without a house being there with it.

PLANNER ADAMS: And I totally understand and agree in most places I’ve worked that’s, and that’s why I asked that of Mark.

COUNCILOR OGILVIE: Are you saying we don’t have any language in our codes that mandates that?

PLANNER ADAMS: Not that I’m familiar with but I can investigate that, like I said that’s what we, or the Planning Commission approved, in November.

COUNCILOR RISLEY: And Daryl Johnson was also denied for that very reason.

PLANNER ADAMS: Yep.

EXHIBIT 09

COUNCILOR RISLEY: So this seems unusual.

JEFF HARRISON: In the code it does clearly say the accessory structure is to be on the same lot as the primary use building, so I'm kind of curious why that is not the case here. The Harding accessory structure is not on the Harding's lot.

PLANNER ADAMS: (to Council) Yeah, so you guys want me to do a back and forth, is that what we're doing?

MAYOR STEIDEL: Yes, we're just having a discussion.

PLANNER ADAMS: So I'm going to be answering to this?

CITY MANAGER ST DENIS: In doing so, remember that we just saw that letter yesterday, so I can't guarantee we can answer to every point.

MAYOR STEIDEL: (To JEFF HARRISON) So staff can't be expected to answer every question in detail...

JEFF HARRISON: That one is a pretty softball question.

MAYOR STEIDEL: That one is a pretty softball question.

PLANNER ADAMS: I can give you my softball answer, right, and to my understanding, it's to use. It's a residential use. Residential use on that lot. And that's how Mark [Barnes] had interpreted that as an accessory to the primary use, which is residential. It's just another portion of that residential use.

JEFF HARRISON: Accessory structure, I just did a quick search on our code, 17.04.010 Accessory structure, use. "Accessory structure" or "accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use." It's pretty clear it should be on the same lot as the primary building.

COUNCILOR BENEFIELD: A question that may arise, and maybe Bill can answer this, is they have an easement, a restrictive easement, does that somehow mean that it's on their lot? I don't think it does...

BILL KABEISEMAN: I don't, but I also think of for example, if I own a house and a garage, and my neighbor comes to me and says I've got this fancy car, can I put it in your garage, for a \$1,000 a month, and I say that would be great. That's more of a lease, but does that get away from the residential use because you're getting paid to allow that use to occur on your property. The easement secures it for a greater period of time, you know, it is something that you know, if, assuming Jeff's, you've got a residential use, you've got uh, a, uh garage that's incidental and subordinate to that residential use does it restrict who can use that garage or not and the easement makes it clear that it actually is the neighbor who is using it, but, um, the, the, it is incidental and subordinate to the use that is on the lot itself.

JEFF HARRISON: Not without rewriting the code itself.

10/23/2020 - Planning Commission, First appeal of administrative decision to approve Najimi building on Lot 1 of Nicholson PUD

At the 1:6.00 mark

COMMISSIONER KERR: I know that we can't go back and redo what was a dreadful; mistake in granting this PUD. It neve should have happened. And it is too late to fix a lot of the things in it. I hope this is a lesson for the City. Planned unit developments are meant to be flexible but they aren't meant to be outright hoax on the community like this one was and full of lies and broken promises like as PUD has been.

COMMISSIONER NEWTON: Lisa I share your frustration with the dual use language is does seem manipulated. One of the challenges I have here is back to us ultimately, we have so many areas that we have people for opportunities looking to define to their need I think we need to play offense, I've said it before and tighten some of these up.

I did come up with one area, the house as proposed does not conform. In the package we were given last month, there was the LUBA appeal, and in the LUBA appeal there were the City Council conditions of approval. There are 18 conditions. I will read condition #16. It's the 4th bullet point. The homes on the site shall all conform to the following.

Should any lot contain a garage or a carport it shall be no larger than a 2-car garage. Garages or carports can be located under the house or detached, but if detached ... the 2nd point language I think is important, the exterior must be the same as the house. So there is a garage on this lot already. I'd be curious, Jeff, Bill, your take on, can any more garages be included on this lot with a garage already on the easement.

PLANNER ADAMS: Well that's a good point, I did not read that that way, I read it that if there's a garage is built it has to be matching you know with the shingles, both shingles, and if there's a detached on, it can't be two stories. So, it doesn't say, it doesn't limit them to only one or whatever, I didn't read it that way.

COMMISSIONER NEWTON: I do read it that way. I think it speaks to the virtual compound that is the concern of the neighbor and I think the point in this was to try to limit the size of these buildings.

12/01/2020 – City Council discussion, appeal of Najimi building permit, Lot 1, Nicholson PUD**1:05:10 mark**

COUNCILOR BENEFIELD: I'm trying to look at the intent that was the understanding of the Council that approved that PUD and the understanding that the PC has which will ultimately determine these definitions, and they have already ruled on what they think those definitions are going to be, and to say technically they were in error, so technically we are going to approve this goes beyond ...it may have been sloppy, but the understanding was not that not be 5 buildings on this property, the understanding was to get some density, get some cottages and avoid a great big McMansion at the top of the hill and we've ended up with a great big McMansion at the top of the hill.

PLANNER ADAMS: They can't, there's a limit of 9,000 sq ft exactly what the ordinance says...

COUNCILOR BENEFIELD: And they could end up with two 4,500 sq ft properties.

PLANNER ADAMS: They did...Excuse me?

COUNCILOR BENEFIELD: They could end up with two 4,500 sq ft properties and one that they couldn't build anything on

PLANNER ADAMS: Exactly...

COUNCILOR BENEFIELD: But that was not the intent, Jeff. We were painted a picture of this nice green area, preserving trees, a green wall, cottages, and preserving one historic building. None of that happened. And now we are playing games, by, um, having an easement and allowing somebody to build a garage and uh...it's not a loft, call it a loft if you want to, but it was designed and built as living area. And if you remove the stairs and say no longer is it livable, is foolish. Nobody's gonna believe that. So we now have five potential buildings there on that lot, or that PUD. So, understanding your position, you're looking at literal words that are there, with a very, very strict interpretation. The Planning Commission looked at what was understood by our Comp Plan, understood by the nature of the community, understood by the hearings that went on when that PUD was approved, and I'm one of those who got snookered because I didn't see that teeny tiny print on the last day that PUD was presented for approval. It was presented as though here's the final we've all discussed it, we've all approved it, and here it is. And yet it was not the same thing and yet it got signed. OK, we screwed up. But I'm not willing to continue to perpetuate a con job like that. That's my discussion.

1:10:10

COUNCILOR MCCARTHY: Well, I have a couple of questions before I consider a motion. ... I had a question on the Harding garage as well. And the arrangement of the easement. From what documents I read today, I was a little confused. The Nicholsons took over the original easement that the Hardings had with the previous owners. And it sounds like...do the Hardings own...do the Hardings own any of the property that garage is on?

PLANNER ADAMS: No.

EXHIBIT 11

COUNCILOR MCCARTHY: OK, so they are building a garage on property they don't own because they have an easement for it. And the easement allows, from what I can see, the easement allows car, two cars to be parked in a turnaround. It doesn't really say, it does say retaining wall, but I'm assuming the retaining wall is for the ...itself. It doesn't really say anything about construction on the easement.

PLANNER ADAMS: It says ...accessory uses.

COUNCILOR MCCARTHY: Um...so that easement then is part of the Najimi's property?

PLANNER ADAMS: Yes.

COUNCILOR MCCARTHY: So the Hardings don't own the property where their garage is on, it's owned by, it's on property owned by somebody else.

PLANNER ADAMS: Yes.

COUNCILOR MCCARTHY: Seems like a weird agreement to me.

PLANNER ADAMS: Yeah, uh, it's unique, I, uh, I uh, I'll give you that.

COUNCILOR MCCARTHY: and then the question of the 2 garages. You have, I guess it's a double garage, although it almost looks like 2 garages in the plan itself for the Najimi's house but basically they have then the double car garage was now the Harding's garage so there's 2 garages on that property.

PLANNER ADAMS: There's 2 garages on the property, yes.

COUNCILOR MCCARTHY: And when I read through the language re: garages it didn't come right out and say you can't have 2 garages but I think if you read it and assumed only one garage would be allowed...

PLANNER ADAMS: I answered that, Mr. Newton asked that in Planning Commission and it falls down to should any it contain a garage or carport it shall be no larger than a 2 car garage. So does that mean any garage...you know, it doesn't say only one garage per lot, right, that's the easy way to do it. Right? But, in no where on here says it's only 4 structures on this PUD. It talks about accessory structures in that exact paragraph, so, you know, yes, each one of these things has many ways to read it, and just like, uh, uh, Councilor Benefield, you know, this is part of the building permit process. I, as well, don't have time to read through thousands of pages of documents and I make my decision on that at that. And yes, I know how, uh, uh, I think the Planning Commission had said, you know, I was dismissive, or, uh, that this was trivial, or something, uh, that the staff was, but no, it's we have, and I'm not trying to push things through or not, but it's just that I have limited resource, limited time, for all of what I do, and I looked at the at building permit and that was my determination at that time, that was my decision at the time.

COUNCILOR MCCARTHY: But if it's a double car garage, you have a double car garage in the house, attached to the house...

PLANNER ADAMS: Right.

COUNCILOR MCCARTHY: ...and you have another double car garage on the property, and isn't it limited to just one double car garage?

EXHIBIT 11

PLANNER ADAMS: Like I said, I did not make that decision, it says, and I just quoted it, it says that, should any lot contain a garage or carport it shall be no larger than a 2 garage. It's talking about garages, it doesn't state you are limited to one 2 car garage. It's "a" garage. "A". Not "the". I'm sorry, but that's what we're down to when we read these things. And, uh, yeah, I don't know if it's, I wouldn't call it sloppy, it's a different reading and a different intent. And so I, I understand, the, interpretations of these things I have to do it every day.

EXHIBIT 12

A-13

VASQUEZ YARD & TREE WORK INC

P.O BOX 273

Hillsboro, OR, 97123

Estimate

Date	Estimate #
9/11/2016	1370

Name / Address
JEFF Nicholsor 4413 SE 39 th portland OR 97202

			Project
Description	Qty	Rate	Total
Estimate Only		0.00	0.00
JOB 532 N Laurel street Cannon Beach OR 97110		0.00	0.00
Buy 102 3 Gal mahonia Repens cost	102	24.99	2,548.98
and 113 3 Gal Gaultheria shalon Salal	113	24.99	2,823.87
Buy 23 yards of composted soil	23	45.00	1,035.00
Labor for planting all plants and Graden		0.00	0.00
to finish this project fee	1	7,875.00	7,875.00
<i>includes maintenance & follow up monitoring</i> <i>includes obtain business license in CB.</i> <i>X [Signature]</i>			
<i>Will to be planted within 6 weeks of completion of work.</i> <i>Plantings to be established within 12 months of planting.</i> <i>X [Signature]</i>			
Thank you for your business			
Total			\$14,282.85

Jeff Harrison/GMAIL

From: Jeff Harrison/GMAIL <jshpub1@gmail.com>
Sent: Friday, May 07, 2021 4:09 PM
To: 'Bill Kabeiseman'
Cc: Jeff Adams
Subject: RE: Nicholson PUD "living Wall"
Attachments: 20210501_162002.jpg; 20210501_161933.jpg

Bill and Jeff,

I understand you can point to the language in the PUD approval whereby CC "expressly concluded no HOA was required", but this is really a half-answer and is disingenuous at best. You know this facet of the decision was made based on Nicholson's claim there was no private space on the PUD. You also know private space was provided in the form of the Harding's highly suspect and questionable easement.

As the City's land use atty, I believe it is your duty to ensure CC understands all of the facts here. When PC reviewed the "non-living" wall last year, they recommended CC take action to rectify the failure of this concrete eyesore. CC decided to wait until the HOA was formed. Now you are saying an HOA is not required, despite the aforementioned fact and state law.

Attached are two current pics of the "living wall" taken last weekend. Despite being springtime in Cannon Beach, when everything is lush and green, the wall has moved backwards with many plants looking brown and dead. Concrete is still the predominant feature.

There may have been 54 new plants planted recently, but where is the "executed contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and shall provide a timeline for the establishment of plantings on the wall"? as required by approval condition #17? All we continue to see is a minimal, home-grown failing effort that comes nowhere close to achieving the required objective of a true living wall.

Jeff

From: Jeffrey Adams [mailto:adams@ci.cannon-beach.or.us]
Sent: Friday, April 30, 2021 2:16 PM
To: Jeff Harrison <jshpub1@gmail.com>
Cc: Bill Kabeiseman <billkab@batemanseidel.com>
Subject: RE: Nicholson PUD "living Wall"

Jeff,

I forwarded your questions to the City Attorney and he provided the response below:

I understand that you remain concerned about the development of the PUD, but there are limits to what the city can revisit once a decision has been made. The city expressly concluded that no HOA was required in 2016 and, whether it was correct or not, the time to challenge it was in 2016. At this point, because the city concluded that no HOA was required, we are not in a position to enforce that requirement. As to whether

there is another body can enforce that requirement, I suggest you contact an attorney who specializes in HOA law.

Finally, as far as the Najimi decision, the order provides an option for a HOA, as well as an option that does not require an HOA.

Bill



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: Jeff Harrison/GMAIL <jshpub1@gmail.com>
Sent: Tuesday, April 27, 2021 3:02 PM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: Bill Kabeiseman <billkab@batemanseidel.com>
Subject: RE: Nicholson PUD "living Wall"

Jeff,

I do recall Nicholson and his lawyer claiming there was no private space in order to circumvent the language CBMC 17.40.030.G.2 as it was written at the time. But it is now widely known that an undisclosed "updated plat" was submitted during the final hearing that contained new notes in tiny print. This was not disclosed to PC, CC, or the public. The tiny print note specifically denotes private space. This note also referenced a recording instrument (also not disclosed to PC, CC, or the public) that referenced an, "Exhibit 3", which grants "exclusive" space and says anyone parking there other than the Hardings are trespassing. That's obviously private and was not disclosed. This is what Councilor Benefield was referring to when he said, "I was one of the ones that got snookered".

Questions:

1. The Council's decision to not require an HOA during PUD approval, based on Nicholson's presentation of no private space does not comport with the undisclosed plat note, which does designate private space.
 - i. Which of these two things are you recognizing?
2. It is my understanding that state law supersedes local. Are you stating saying ORS 94.625 does not apply?
 - a. If it does not apply, why not?
 - b. If ORS 94.625 does apply, but you are not following it, what body has jurisdiction/authority and responsibility to ensure that it is followed?
3. We are not clear why the City would craft an order to Najimi and the PUD HOA when an HOA does not exist, and you do not intend to enforce its existence. How do you intend to enforce an order to a non-existent HOA?

Jeff

From: Jeffrey Adams [<mailto:adams@ci.cannon-beach.or.us>]
Sent: Monday, April 19, 2021 10:28 AM
To: Jeff Harrison <jshpub1@gmail.com>
Cc: Bill Kabeiseman <billkab@batemanseidel.com>
Subject: RE: Nicholson PUD "living Wall"

Jeff,

I understand your concern about the HOA and your desire to see one in place; however, when the final PUD was approved, this issue was raised and the Council specifically concluded that no HOA was required for this development. Here's the language from that decision:

- CBMC 17.40.030.G.2 requires a home owners type association “[w]henver private outdoor living area is provided * * *.” CBMC 17.40.030.A makes clear that there are two types of outdoor living areas—those that are private and those that are common. As is shown on the final plat submitted by applicant, all of the outdoor living areas for the sit will be subject to a common space easement and are therefore not private. Because no

LUBA Record 2016-033 Page

8 of 15

private outdoor living areas are provided as part of this proposal, no home owners type association is required by CBMC 17.40.030.G.2.

That conclusion was not challenged at LUBA and, therefore, is effective. Whether you (or even I) believe the Council's decision in 2016 was correct or not, that is the decision that was made and is now beyond challenge. The City can certainly encourage the owners to form a HOA, and we have done so, but the Council has expressly concluded that 17.40.030(G)(2) does not require them to form one.

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: Jeff Harrison <jshpub1@gmail.com>
Sent: Friday, April 16, 2021 11:41 AM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: Bill Kabeiseman <billkab@batemanseidel.com>
Subject: Re: Nicholson PUD "living Wall"

Jeff,

How is it being allowed to put the HOA on hold given the referenced ORS and CBZO?

Jeff

On Fri, Apr 16, 2021, 10:26 AM Jeffrey Adams <adams@ci.cannon-beach.or.us> wrote:

Jeff,

The planting hasn't been put on hold. They have started planting and should be finished within the week.

The HOA has been put on hold.

Thanks,

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: Jeff Harrison/GMAIL <jshpub1@gmail.com>
Sent: Thursday, April 15, 2021 2:24 PM
To: Jeffrey Adams <adams@ci.cannon-beach.or.us>
Cc: Bill Kabeiseman <billkab@batemanseidel.com>
Subject: RE: Nicholson PUD "living Wall"

Jeff,

According to ORS 94.625 it appears an HOA was required to be done no later than when the first lot was sold. That was in 2018.

<https://www.oregonlaws.org/ors/94.625>

Additionally, CBZO 17.40.030(G)(2) Development standards, Outdoor living area reads:

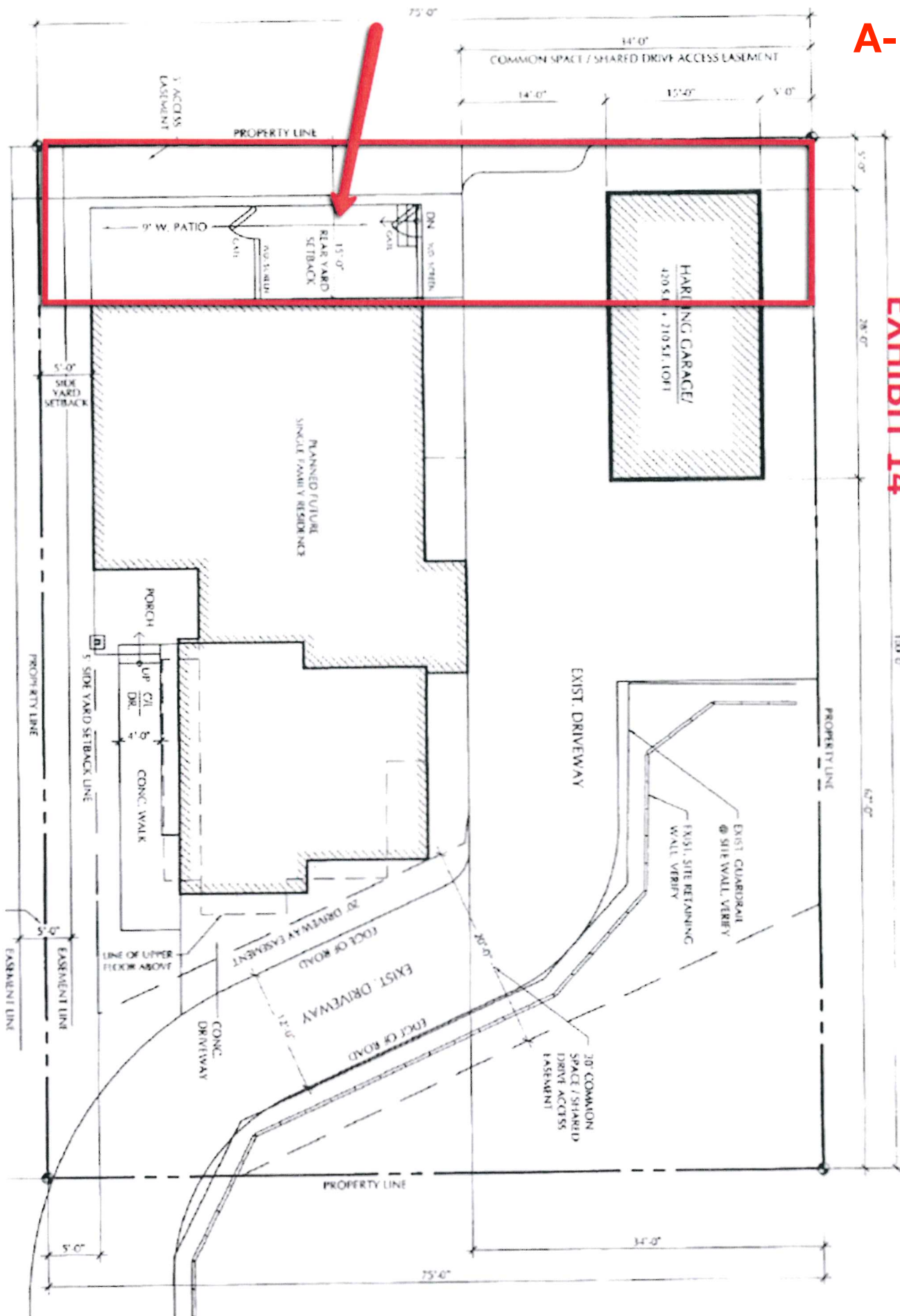
"Outdoor Living Area. Whenever commonly-held outdoor living area is provided, the commission or council shall require that an association of owners or tenants be created into a nonprofit corporation under the laws of the State of Oregon, which shall adopt such articles of incorporation and by-laws and adopt and impose such declaration of covenants and restrictions on such outdoor living areas and/or common areas that are acceptable to the commission. Such association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain such outdoor living area for the purposes intended. The period of existence of such association shall be not less than twenty years, and it shall continue thereafter until a majority vote of the members shall terminate it."

How is it an option to allow the HOA to be put "on hold"?

The wall was built in 2016. It is still mostly concrete. Who is supposed to plant 54 new plants and why would that be allowed to be put "on hold"?

Jeff

EXHIBIT 14



**3/1/2016 – City Council discussion of “Living Wall”, Final Approval Hearing,
Nicholson PUD**

3:02:00 mark

COUNCILOR VETTER: I have a concern uh my main concern is I hear about the common area, the wall, uh and the fact that this is such a sensitive piece of property and if the landscaping is not maintained properly then we could have problems, it could be a problem not only for that property but for the neighbors. Uh, the worst way to get something done is to assign a lot of people to it because nobody is in charge, so I am concerned about if no one is properly in charge who will take the step to say it's you, you need to do some work on the landscaping and you know some other aspect ...restriction. So, who's gonna do that?

COUNCILOR BENEFIELD: Their lawyer should address that.

WILL RASMUSSEN: will Rasmussen, thank you for the question. That question can be addressed any number of ways among the four owners. Uh, like the deed restriction that is in the record, there is also a deed common space easement that's currently structured so that those open common spaces are essentially outdoor vegetation common area that allows any of the owners to go in and remove non-native vegetation but ultimately give the owner of the underlying lot the responsibility to maintain it. If it's important to the council that the plantings that are done as part of the landscape plan be maintained uh we would accept just about any sort of allocation of responsibility the city decision could be come up with how that could be done, I frankly included you know some ..city to poke the homeowner to fix the planting if they're not, uh, we're entirely open to address that issue any way the city feels is appropriate.

COUNCILOR VETTER: Could the homeowners be required to

WILL RASMUSSEN: We could basically make the homeowners jointly responsible for maintaining those areas under the common space easement that is currently in the record and in that give the city authority to required fixing plantings or whatever when it is not um if the city feels the plantings are not being maintained as per the landscaping plan, make all 4 homeowners jointly responsible ...for that...and fixed.

MARK BARNES: While they are talking about it we as staff actually have some enforcement authority there anyway...

COUNCILOR VETTER: Yeah, we do that with businesses...

MARK BARNES: Yeah, if their landscape plans is failing for instance, we have the ability to enforce that anyway and the 4 owners, send the 4 owners a letter saying you need to meet these requirements, that means fixing the landscaping for instance.

COUNCILOR CADWALLADER: I too am hearing concerns about the wall are we including the plantings on the wall when we talk about landscape?

MARK BARNES: that seems to be the one people are most concerned about...

EXHIBIT 15

COUNCILOR CADWALLADER: ...is the wall.

MARK BARNES: Any landscape failure there that is part of this approval would be subject to enforcement from our end.

WILL RASMUSSEN: Jeff Nicholson's point is the landscaping plan is to largely reflect the plantings that are already there and to supplement with native plantings. Keep the native trees, keep the native brush, and add that additional stuff. Um, to the degree the city thinks that is not happening I would agree with what planner Barnes is saying that if we are not complying with the plan, the city says you are not complying with the plan, the city has enforcement authority just like on any other property that's not complying with an approved land use decision, uh, so that's one enforcement mechanism. If you want something baked in as a joint common space easement put it into a condition of approval we can do that we can even bring that language back to you next week if you want to see how that works.

COUNCILOR VETTER: Mark, how do you see that working, if you or your staff see that not working then stuff needs attention, who would you go to?

MARK BARNES: There's 4 owners there, whatever this is going to be called send a letter to all 4 owners, it's going to have a name...

WILL RASMUSSEN: It would be a notice of violation to all 4 owners even if the violation is just on one property.

MARK BARNES: Yeah.

MAYOR STEIDEL: It is a landscaping plan basically maintaining what's there. But the wall is something new. It's something new so the maintenance of that also.

WILL RASMUSSEN: Yes.

MAYOR STEIDEL: Ok. So that would also include the damaged areas, what has happened around the buildings that needs fill, ...need plants.

COUNCILOR CADWALLADER: but the wall, again, I heard a lot of testimony about the wall, and the wall it seems to talk about and make applicant...the wall's coming quite quickly on the driveway that's going to lead down to get to the first site, correct?

WILL RASMUSSEN: Yeah, the driveway sits on top of the wall, that's correct.

COUNCILOR CADWALLADER: So essentially the wall will initially only be the responsibility of the applicant because he will be the only owner at this point...

WILL RASMUSSEN: That's correct.

COUNCILOR CADWALLADER: So it will be solely on the applicant to do the initial plantings, maintenance, whatever, whatever, whatever, until they are other owners, am I seeing this correctly?

WILL RASMUSSEN: Yes.

BILL KABEISEMAN: And, so, certainly at the time of development the owners response will....getting it going. When they get sold off, assuming there are 4 future owners, each of them would have some level

EXHIBIT 15

of responsibility for doing it and again this is something where we want to make the city a benefitted party that they could actually force the issue.

COUNCILOR CADWALLADER: Correct. So initially there will be one owner and then if the other lots get sold off there will be more parties responsible for the maintenance of the wall and the plantings.

BILL KABEISEMAN: Yeah, and you know, Councilor Vetter does bring up a good point, the more people involved the more diffuse the responsibility the easier it is for somebody to say no we need to make it clear they are all responsible.

COUNCILOR CADWALLADER: Do we need to include the wall in landscaping as a condition, that could be its own condition?

BILL KABEISEMAN: We could call it out in a separate condition.

COUNCILOR CADWALLADER: I'd like...

MAYOR STEIDEL: I was ...what businesses often do is hire a contractor to maintain things, the 4 owners could ...way of

WILL RASMUSSEN: And, uh, the property owner wanted also to make clear that maintenance of that access drive is the joint responsibility of all 4 of those people because that NE lot is where the majority of the maintenance is going to happen and the benefitted lots are really the ones on the west side of the property so we feel like they should be responsible for maintaining that also.

COUNCILOR CADWALLADER: The NE lot? Number 4?

WILL RASMUSSEN: Number 4, yeah.

COUNCILOR CADWALLADER: Direction sometimes get screwed up...

WILL RASMUSSEN: I'm special, a lot of people aren't.

11/26/2019 – Planning Commission, Good of the Order, discussion re: incompatibility between Nicholson PUD Shared Access Maintenance Agreement (which includes private space) and the lack of HOA based on promise of no private space.

16:13:00 mark

CHAIR JOHNSON: Good of the order.

COMMISSIONER KERR: OK, I've got something. I'd like to know, at our last meeting, I inquired about the garage in quotes up on the hilltop of the garage...Harding...I guess, I don't know if it's all Harding property or if they exchanged easements at some point, and I was told, unequivocally, that is a garage, and I said, it doesn't look like a garage, and I sure would like to see our building inspector go out and look at it, I've never seen a garage with a second story like that that was just a garage. And then, I come to find out, and I don't know if it's true or not, that it isn't a garage, that it is now a studio and garage? So I'd like to know what it is.

PLANNER ADAMS: Sure, I think that uh I sent you the access easement and the conditions that it was approved under and condition 2 of the Nicholson PUD allowed for an access easement to be recorded or mandatory access easement so that was recorded, yes Harding was party to that access easement...

COMMISSIONER KERR: Why was Harding?

PLANNER ADAMS: You know, I don't know why they granted...

COMMISSIONER KERR: I'm curious because I sat through the whole Nicholson thing and I remember that there was a whole list of conditions that were placed on Nicholson if he wanted this PUD and very few of them have been met to this day and no one seems to be interested in doing anything about it and now, I'm not saying it didn't happen but I don't remember an access easement being discussed by council in any of the meetings and I don't remember anything about an exchange of easements, you know, being discussed, I know that their attorney went in at the last second and filed one but I don't know that it ever came before the council and if it was every discussed as part of the conditions for this PUD, or if he just snuck it in under the radar at the last second.

Clay Newton: Jeff, I went through this, on page 71 of the larger packet, the 95 packet, this looks like what was presented to LUBA, there is a common space and common access easement, that does not directly address the parking easement, and that appears to be subsequent, and I don't know if this was slipped in or came later I certainly don't have the information to see that, but I don't believe the Hardings were a party to this process at the time. My understanding, and anyone here can correct me if I'm wrong, they bought a property later and then were now a part of that PUD, but in this original document that went before LUBA there was an access agreement for the 4 lots and I think that's an important piece in as I've looked at this, and I'll get more information because that access agreement benefits all parties. And one of the conditions that was important that a homeowners association wasn't needed was all of the space was accessible to all of the 4 lots. The parking easement, may, I

EXHIBIT 16

don't know this, the parking easement may go in the face of that in that there's a no trespassing covenant ...

CHAIR JOHNSON: My remembrance of that was that the easement did not go up the hill. It came in from the side street and it went through the Nicholson property but it didn't go up to the Harding property, that's what I remember.

COMMISSIONER NEWTON: Well it looks like, this is page 79 of that larger packet, it looks like that easement does go all the way from Laurel to what would that be, Ash up above? Yeah, Ash. And there is in this packet that I have an area that looks like, it's so small it's hard to read, I think it says future parking easement, and it's a little carve out in the corner.

COMMISSIONER KERR: But that's for the people in the PUD.

COMMISSIONER NEWTON: I think that's what's unclear. Yes, is this for the benefit for the people in the PUD or is this for the benefit of the neighbor and that's not stipulated but I think it draws attention to a larger issue which is are all of the common areas in this PUD actually accessible to the all of the owners in this PUD. Or is there a carve out in there for that parking easement.

Note: Due to the size of the record for AA #21-01, the “C” & “D” exhibits have been provided on their own page of the City’s website and left out of this document.

The C & D exhibits can be found on the following webpage:

<https://www.ci.cannon-beach.or.us/planning/page/aa-21-01-hathaway-administrative-appeal-behalf-jeff-jennifer-harrison>

