



# 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](http://ci.cannon-beach.or.us) for viewing options and how to [submit public comment](#).

Meeting: Planning Commission  
Date: **Thursday, September 23, 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 August 26, 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 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**

**VAC 21-01**, 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.

### INFORMATIONAL ITEMS

6:30 (4) **Tree Report**

(5) **Ongoing Planning Items:**

**Transportation System Plan: Interactive Online Open House, September 22 at 6-7 PM,  
@ [www.cannonbeachtsp.com](http://www.cannonbeachtsp.com);  
Living Wall Yearly Monitoring Report**

## (6) Good of the Order

## 6:50 (7) 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](mailto: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.*

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**Posted: September 16, 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](mailto: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](mailto:planning@ci.cannon-beach.or.us). If you wish to speak to an issue, please provide that information within the 'subject' or 'body' of your text. If it is not directed at a particular issue, Public Comment may be taken at the beginning of the meeting.

**Minutes of the  
CANNON BEACH PLANNING COMMISSION**  
Thursday, August 26, 2021

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

Excused: Lisa Kerr

Staff: Director of Community Development Jeff Adams and Administrative Assistant Katie Hillenhagen

**CALL TO ORDER**

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

**ACTION ITEMS**

**(1) Approval of Agenda**

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

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

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

Chair Johnson asked if there were any amendments to the minutes.

Bennett said that his name was missing from the motions for the minutes and agenda. He said that he had voted yes but was perhaps on mute. Hillenhagen said that she would correct the minutes.

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

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

**(3) Public Hearing and Consideration of SR 21-05, David Vonada request, on behalf of Dana & Thurman Cardwell, of 1696 S. Hemlock, for a Setback Reduction of the rear-yard setback requirement for an entry-arbor in conjunction with a fence for an existing residence.**

**SR 21-05**, David Vonada application, on behalf of Dana & Thurman Cardwell, to allow a setback reduction to reduce the rear-yard setback from the required 15 feet to 0 feet to accommodate an entry arbor in conjunction with a rear-yard fence, according to chapter 17.14 Residential Medium Density Zone of the Municipal Code. The property is located at 1696 S. Hemlock St. (Tax Lot 4102, Map 51030DA) in the Residential Medium Density (R2) zone and Oceanfront Management Overlay (OM) zone. The request will be reviewed against the Municipal Code, Section 17.64.010, Setback



Reduction, Provisions established. Code, Section 15.04.150 and Section 17.88.180, Review consisting of additional evidence or de novo review and applicable sections of the zoning ordinance.

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

Adams read the staff report (see staff report in packet for full details). Adams noted that many structures along Forest Lawn are non-conforming. The property owner was issued a letter on June 11, 2021 regarding the violation of constructing an arbor in the required rear-yard and given alternatives for bringing the structure into compliance. This setback reduction application is one option for the arbor to come into compliance. Adams recommended a condition for approval that would limit the setback reduction to the existing arbor as it is now, with no other structures or additions/alterations allowed in the required yard. Adams noted that the structure does not intrude into any view sheds. He also noted that the structure would be allowed in the front yard and that this lot is a through lot with two sides that front a street.

Chair Johnson asked what kind of structure the arbor is. He also asked about the height of the fence.

Adams clarified that it is an accessory structure and said he would let Vonada speak the height of the fence. He believed it was between 5 and 6 feet.

Bernt asked what the size limitations are for arbors.

Adams read the applicable language which limits the height of an arbor to 10' and the depth of 5'. Adams noted that the language is for a front yard entry and does not apply here because this is in the back yard.

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.

David Vonada, PO Box 648, Tolovana Park, 97145. Vonada said that the development along Forest Lawn lead the Cardwells to believe that they could construct the arbor at its current location. He said that if they



would have known it was non-conforming they would have applied for a setback reduction before building. The Cardwells bought the property after the house was constructed, but if they had planned the layout of the house, they would have had the front of the house facing Forest Lawn. For this reason, they decided to enhance the entry on Forest Lawn. This is a safer entry than on Hemlock. Vonada noted that there is no intent to encourage people to park on Forest Lawn, the new entry is intended for pedestrian access. Vonada also said that he did not think that the Cardwells would oppose limiting parking on Forest Lawn or the proposed condition for approval. He noted that they intend to add roofing to the arbor that matches the dwelling.

Bernt asked if the arbor would be considered living space.

Vonada said that it would not be considered living space. It would be used to shelter from rain or other weather when coming or leaving the property, but that is it.

Bernt asked if the gate would match the existing fence.

Vonada was not sure but said that he would recommend that the gate match the existing fence.

Newton asked if the arbor was meant to be a staging area for people getting in and out of their car.

Vonada said that that was not the intent.

Chair Johnson called for proponents of the request.

Thurman Cardwell, PO Box 1305, Cannon Beach. Cardwell apologized for getting halfway through the project without getting approval. He noted that all the other homes on the street have Forest Lawn addresses. He also said that there is already an arbor the street. Cardwell confirmed that the gate will match the fence, though it may be lower to make it more inviting. He addressed parking and said that there is a utility corridor along that side of the street that makes it look like it is for parking. He said that they would be happy to, and even welcome, putting up no parking signs. He also noted that they do not intend to rent the home as a short-term rental.

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

Adams mentioned that there were letters from surrounding landowners in the packet and they were all positive. He said that he had brought up parking because that will be addressed in the TSP and the area in questions will likely be new signage as a result.

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

Vonada reiterated the strong support from the neighbors. He said that they did not encounter anyone in the neighborhood who was opposed to the project.

Newton asked about the roofing material on the house.

Thurman said that it is a wood shake; the arbor will have wood shake as well.

Chair Johnson closed the hearing and moved to consideration.

Motion: Newton moved to approve the request with the condition that no additional structures be developed in the required rear yard; Patrick seconded the motion.

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

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Johnson stated that the project was approved.

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

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

Vote: Patrick, Bennett, Knop, and Newton voted AYE; Bernt abstained. The motion passed.

#### **INFORMATIONAL ITEMS**

##### **(8) Tree Report**

No comments.

##### **(9) Ongoing Planning Items**

Adams encouraged people to visit the Transportation System Plan website (@ [www.cannonbeachtsp.com](http://www.cannonbeachtsp.com)) and noted that there are new reports up. Additional reports will be added next week. Adams said that notice for the next TSP Open House should go out next week as well. Additionally, the first joint code audit session will be next month.

Adams said that due to recent COVID numbers City Hall will be closing to the public, except by appointment. Board and Commission members will still be able to attend meetings in person.

The Living Wall Yearly Monitoring Report was tabled until next month.

##### **(10) Good of the Order**

No comments.

#### **ADJOURNMENT**

The meeting adjourned at 6:35 pm.

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Administrative Assistant, Katie Hillenhagen



# Cannon Beach Planning Commission

## Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **VAC 21-01**, CLATSOP COUNTY, OREGON, REQUESTING A VACATION OF PORTIONS OF ALDER STREET AND PINE STREET (LOCATED IN THE TOWN PLAT OF SEAL ROCK BEACH, BOOK O, PAGE 77, CLATSOP COUNTY TOWN PLAT RECORDS) FOR ALL OF ALDER STREET LYING NORTHERLY OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 11, BLOCK 10. 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.

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**Agenda Date:** September 23, 2021

**Prepared By:** Jeffrey S. Adams, PhD

## GENERAL INFORMATION

### NOTICE

Public notice for this September 23, 2021, Public Hearing is as follows:

- A. Notice was posted at area Post Offices on September 1, 2021;
- B. Notice was mailed on September 1, 2021 to surrounding landowners within 100' 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 16, 2021 unless otherwise noted.

#### **"A" Exhibits – Application Materials**

**A-1** Application packet, including **VAC#21-01**, Received August 16 and stamped August 23, 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 Megan Gill, affected party correspondence, dated September 13, 2021;
- D-2 Anna “Mickey” Moritz, letter, dated September 15, 2021;

## BACKGROUND

Clatsop County is seeking 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.

The approximate 6,000 square-foot (SF) right-of-way, is unimproved beach area, as shown on the aerial photograph at the end of this staff report and provided in the Town Plat.

The location of these remnant rights-of-way from the 1890 Seal Rock Beach Town Plat has caused management issues and the County is seeking a vacation of the rights-of-way to allow them to transfer the property to the State for State management of these beach areas.

Cannon Beach Municipal Code chapter 12.32 provides criteria of approval.

## APPLICABLE CRITERIA

### 12.32.030 Review criteria.

*In reviewing a petition for a street vacation, the planning commission and city council shall base their recommendation and decision on the conformance of the petition with the following criteria:*

**12.32.030.A.** *The request is not in conflict with the comprehensive plan.*

**Staff Comment:** The only specific Comprehensive Plan language regarding these unimproved rights-of-way in beach areas falls to the ‘Recreation, Open Space, Natural, Visual, and Historic Resources Policies’ section:

23. The City will cooperate with the Oregon Department of Parks and Recreation in implementing a program to regulate uses on the beach.

There are many instances where the Comprehensive Plan speaks about preserving access to beach areas, but this is in reference to rights-of-way areas that abut the beach and connect existing points of public access and future access. This would not apply to the current application and thus this vacation would uphold the Comprehensive Plan language to allow the State to more efficiently regulate the use of the beach.

The beach area is a sensitive ecological habitat for various coastal wildlife and management of the resources is prominent to many of the Comprehensive Plan concerns. Keeping this area from the threat of overnight stays and unmanaged public use, is central to the tenants of the public regulation of Oregon’s coastal assets and the Cannon Beach Comprehensive Plan.

**12.32.030.B.** *There is a valid public purpose for the street vacation. Returning the vacated street to the tax rolls shall not be considered sufficient to establish a valid public purpose.*

**Staff Comment:** The proposed vacation would transfer unimproved and unplanned for rights-of-way, which are currently and increasingly becoming under developmental pressures, from any realm of development to the State to be placed in an easement to benefit the citizens of the state, by keeping the area more securely as a State recreational asset. Complies with criteria.

**12.32.030.C.** *The request will not adversely affect the provision of public facilities and services.*

**Staff Comment:** There are no public facilities or services in these areas, other than the State’s ability to manage and maintain recreation, rather than what is currently facilitated through County management of the area. As the applicant states, “the State can better manage the beach and prohibit overnight camping; which, has been a concern to the adjoining neighborhood. Currently, the County does not have the resources and staff to manage this area of the beach.”

As the applicant states, this will be a better use of public resources, where local resources can’t adequately manage such resources, the State is capable. Meets criteria.

**12.32.030.D.** *The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.*

**Staff Comment:** The rights-of-way in question have no surrounding private property where access needs would be required for future development, so there appears to be no conflict with the vacation. The State operates the beach areas throughout Cannon Beach and the State and this vacation will not impact those services. As noted by the applicant, “all other adjoining streets/right-of-ways within the Seal Rock Beach Subdivision located within the City limits have been vacated.” The request complies with the criteria.

**12.32.030.E.** *Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless an equivalent or improved public access is provided.*

**Staff Comment:** As discussed above, these rights-of-way do not provide access to the ocean beaches and thus, do not fall under this section of the Comprehensive Plan or these criteria. Meets criteria.

## **STAFF RECOMMENDATION**

Staff recommends approval, with the condition to waive fees.

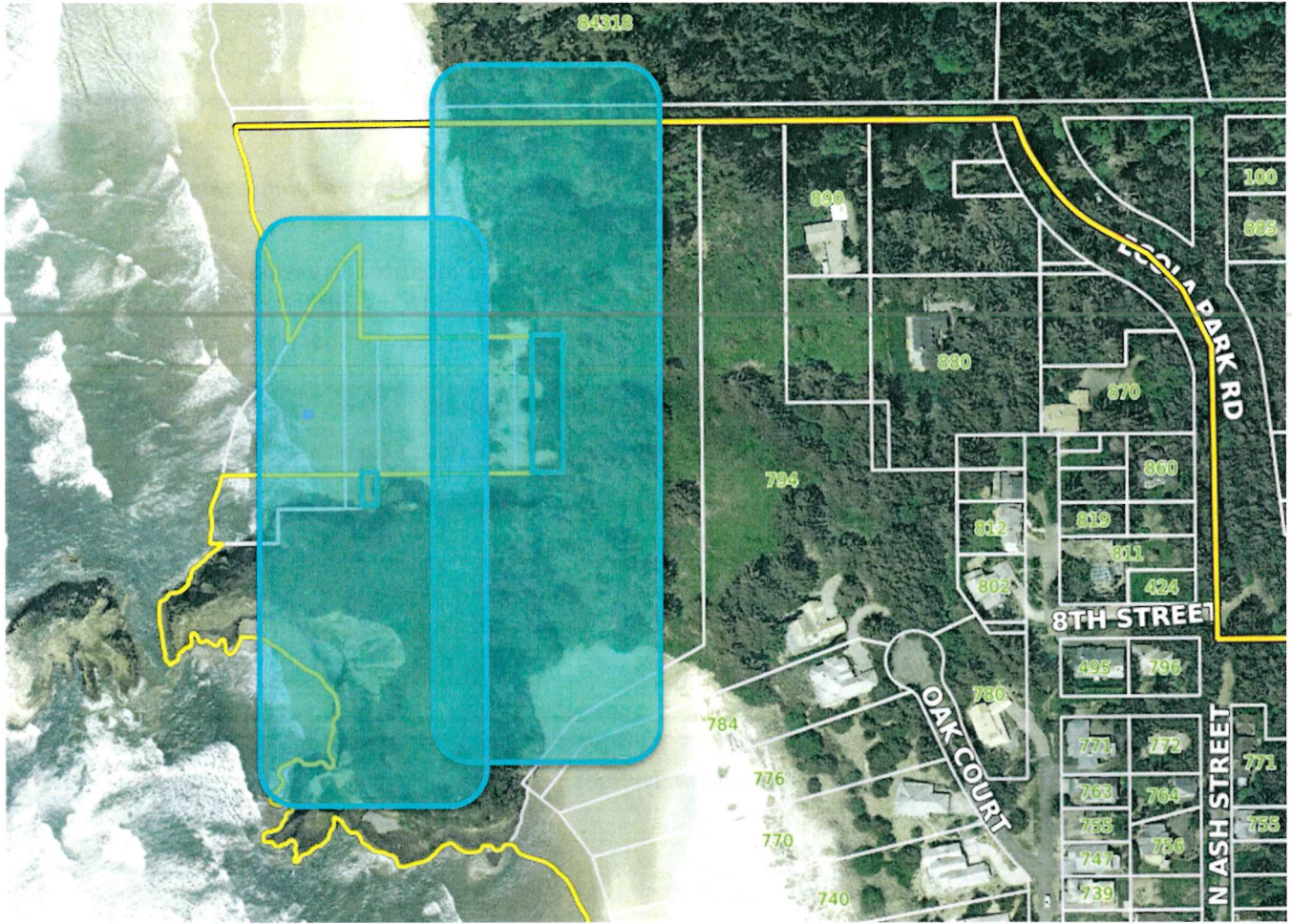
## **PLANNING COMMISSION ACTION**

**MOTION:** 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/approval with conditions/or denial) 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 (subject to the following conditions):

1. Waiving of fees for the vacation to benefit the citizens of the state.



Site Map:





**List of Adjacent and Affected Parties:**

TL 510180000200	ORPRD	725 Summer St. #C	Salem, OR, 97301
TL51019AB00902	ORPRD	725 Summer St. #C	Salem, OR, 97301
TL 51019AB00900	Frank & Mary Gill	01740 SW Military Rd.	Portland, OR, 97219
TL 51019AB02400	Kelly Orfield	3116 SE 303 <sup>rd</sup> Ave.	Washougal, WA 98671











VAC 21-01

City of Cannon Beach  
Finance Department

## CITY OF CANNON BEACH

AUG 23 2021

Received

## STREET AND ALLEY VACATION APPLICATION

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

Applicant Name: Clatsop County, a political subdivision of State of Oregon  
Email Address: sduloos@co.clatsop.or.us  
Mailing Address: 820 Exchange St., Suite 230  
Astoria, OR 97103  
Telephone: 503-338-3674  
Property Location: Cannon Beach - Seal Rock Beach area

STREET/ALLEY VACATION REQUEST: See attached

1. Street or alley proposed for vacation. Please attach a map of the street or portion of a street you are requesting to vacate.

Basis for granting the request. Explain how the request meets each of the following criteria for granting the vacation of a street or alley. Please attach additional sheets as necessary.

- a. The request is not in conflict with the Comprehensive Plan.
- b. There is a valid public purpose for the street/alley vacation. Returning the vacated street to the tax rolls shall not be considered sufficient to establish a valid public purpose.
- c. The request will not adversely affect the provision of public facilities and services.
- d. The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.
- e. Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless and equivalent or improved public access is provided.





## STREET VACATION REQUEST:

1. Street or alley proposed for vacation. Please attach a map of the street or portion of a street you are requesting to vacate.

*Portions of platted and unimproved Pine and Alder street right of ways in the Seal Rock Beach Subdivision. Vacation request in the attached map is highlighted in yellow.*

*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.*

*(The areas highlighted in blue will be presented to Clatsop County Public Works for street vacations in the near future.)*

Basis for granting the request. Explain how the request meets each of the following criteria for granting the vacation of a street or alley. Please attach additional sheets as necessary.

- a. The request is not in conflict with the Comprehensive Plan.

*The zoning in this area is Open Space, and this request would preserve the area in its natural state to the benefit of the citizens of the State of Oregon. Additionally, because this will benefit the citizens of the State, Clatsop County is requesting the fee to be waived for this street vacation request.*

*Please note that all other adjoining streets/right of ways within the Seal Rock Beach Subdivision located within the City limits have been vacated.*

- b. There is a valid purpose for the street/alley vacation. Returning the vacated street to the tax rolls shall not be considered sufficient to establish a valid public purpose.

*The purpose of this request is based on the County's intent to transfer two tax-lots in the Seal Rock Beach area to the State of Oregon. The State does not accept transfers of property unless all streets, alleys and right of ways have been vacated. Staff believes the State can better manage the beach and prohibit overnight camping; which, has been a concern to the adjoining neighborhood. Currently, the County does not have the resources and staff to manage this area of the beach.*

- c. The request will not adversely affect the provision of public facilities and services.

*There are no public facilities or services provided through Alder and Pine Streets.*



- d. The request will not have an adverse effect on vehicular access to adjoining property, including emergency vehicle access.

*There is no vehicular access to this portion of Pine and Alder Streets and this request will not adversely affect any vehicular services to the adjoining properties, including emergency vehicle access.*

- e. Streets which provide access to the ocean beaches or the Ecola Creek Estuary shall not be vacated unless an equivalent or improved public access is provided.

*These are two small stand-alone portions of right of ways and do not provide public access to the beach as they are part of the beach.*





Street Vacation Application Fee: \$1,000.00

Applicant Signature: *Suipa Duoss* Date: *August 16, 2021*  
*Property Management Specialist*

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*For Staff Use Only:*

Received on: \_\_\_\_\_ By: \_\_\_\_\_

Fee Paid: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

*(Last revised March 2021)*

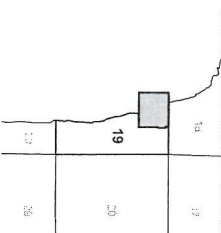
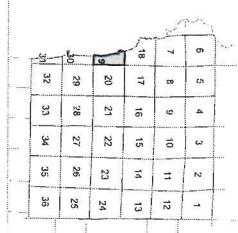
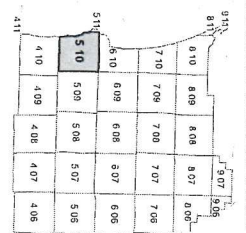


SEE MAP 5 10 18

5 10 19 AB  
CLATSOP COUNTY  
NW 1/4 NE 1/4 SEC. 19 T5N R10W WM

Scale 1:1,200

0 62.5 125 250 ft



CANCELLED TAXLOT NUMBERS			
200	600	901	1300
300	700	902	1400
400	800	903	1500
500	806	1200	3000



Clatsop County  
City

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)

This map was produced using Clatsop County GIS data. The data is maintained by Clatsop County to support its governmental activities. Clatsop County is not responsible for any map errors, possible misuses, or misinterpretation.

PLOT DATE: 5/12/2021

5 10 19 AB

SEE MAP 5 10

PACIFIC

OCEAN

10-02

10-08

9TH

STREET

7TH

STREET

OAK

STREET

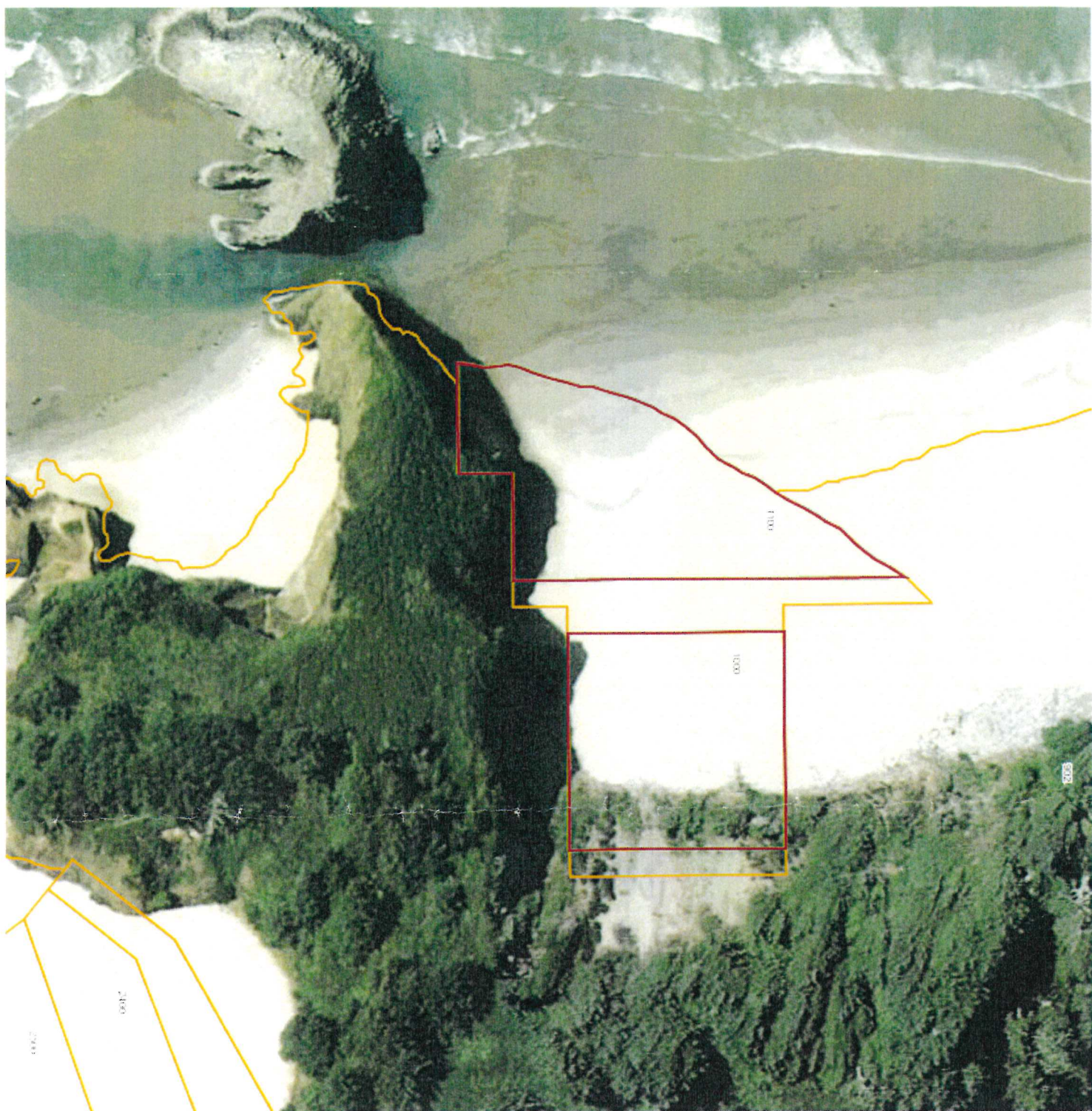
SEE MAP 5 10 19AA

SEE MAP 5 10 19A

SEE MAP 5 10 19AD













**CANNON BEACH COMMUNITY DEVELOPMENT**

163 E. GOWER ST.

PO Box 368

CANNON BEACH, OR 97110

Megan Kathleen Gill  
01740 SW Military Rd.  
Portland, OR 97219

September 1, 2021

**RE:**

**VAC 21-01**, 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 17.34 Open Space Zone of the Municipal Code. The property is located on unimproved Pine and Alder Street in the Seal Rock Subdivision (Tax lots 00902 & 01000 Map 51019AB) in the Open Space (OS) zone. The request will be reviewed against the Municipal Code, Section 12.32, Street and Alley Vacation, Provisions established.

This is a notice to adjacent and affected property owners that Clatsop County is,

REQUESTING A VACATION OF PORTIONS OF ALDER STREET AND PINE STREET (LOCATED IN THE TOWN PLAT OF SEAL ROCK BEACH, BOOK O, PAGE 77, CLATSOP COUNTY TOWN PLAT RECORDS) FOR ALL OF ALDER STREET LYING NORTHERLY OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 11, BLOCK 10. 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.

Please find attached the petition from Clatsop County requesting the City of Cannon Beach's vacation of the property described. As a property owner either adjacent to or within the prescribed affected area by ORS 271.005-217.160, you may show support of such a vacation, as described in the petition's narrative, by signing and returning the signed petition addendum to Cannon Beach City, in care of the Community Development Department, PO Box 368, Cannon Beach, OR 97110.

By signing below you are giving written permission for the City of Cannon Beach to vacate the property described on behalf of the State of Oregon and the Department of Parks and Recreation.

Sincerely,

Jeffrey S. Adams, PhD,  
Cannon Beach Community Development Director

Cc: Jennifer Barrett, City Recorder  
Bruce St. Denis, City Manager  
Bill Kabeiseman, City Land Use Attorney

City of Cannon Beach  
Finance Department

**SEP 13 2021**

Received

Received and approved by:

Megan Kathleen Gill

Megan Kathleen Gill, Property owner TL 51019AB00900

September 9th, 2021

Date

01740 SW Military Rd.

Portland, OR 97219

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September 15, 2021

Anna "Mickey" Moritz  
771 N. Ash St.  
PO Box 84  
Cannon Beach, OR 97110

Cannon Beach Planning Commission  
Attn: Community Development  
PO Box 368  
Cannon Beach, OR 97110

RE: Public Notice **VAC 21-01**; Protect Crescent Beach by vacating City rights-of-way on Clatsop County parcels

To Whom It May Concern:

I am writing to urge the Planning Commission to protect Crescent Beach by voting in support of vacating City rights-of-way over County taxlots 1100 and 1000. Vacating these rights-of-way is a necessary step to toward transferring these lots to Oregon State Parks, and thus protecting the land and unifying management of Crescent Beach.

For background on this request, it may be helpful to note that these parcels are entirely surrounded by Ecola State Park (yellow arrow in image below). Furthermore, the parcels lie just above the southern portion of Crescent Beach.



As you are likely aware, Crescent Beach is a beautiful and much-visited beach to the north of Chapman Point. It is the beach that visitors view from the Overlook parking lot in Ecola Park. Crescent Beach is accessible via trails through Ecola State Park, and at low tide it can be reached by walking between the rocks at the Chapman Point. This beach is not only a popular destination, but is also important ecologically. For instance, Crescent Beach is a nesting area for Black Oystercatchers, home to vibrant tide pools, and the land above the beach is a nesting area for Bald Eagles.

The northern two-thirds of Crescent Beach is under State Parks jurisdiction. The southern third, however, is not subject to State Parks regulations because it is owned by the County. This has created issues with campers – sometimes long term – using the southern portion of Crescent Beach. Because



this is not a beach area either within Cannon Beach city limits or bordering State Parks land, there is no restriction on camping. Recognizing this problem and seeing the need for uniform enforcement of the beach and land management, Clatsop County is currently in the process of deeding these parcels to State Parks. This will allow the day-use beach to be protected.

Although the land transfer process has been started, it cannot be completed until all rights-of-way have been vacated on the parcels in question. To that end, the City of Cannon Beach must release its easements over these parcels. There is much to be gained by ensuring that this land transfer can take place, and I urge the Planning Commission to vote yes to vacating city rights-of-way across these parcels.

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Thank you for taking the time to consider this request. I hope you will choose to help protect the beauty and ecology of Crescent Beach! You can reach me at [atmoritz@gmail.com](mailto:atmoritz@gmail.com) or (425) 780-0245.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anna Moritz', with a stylized flourish at the end.

Anna "Mickey" Moritz, PhD, JD



# CITY OF CANNON BEACH

September 1, 2021

**VAC 21-01**, 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.

Dear Property Owner,

The City of Cannon Beach is providing notice to property owners surrounding the proposed application. Your property is located within the established notice area and you are being notified as a party of record.

The public hearing on this matter will be held on Thursday, September 23<sup>rd</sup>, 2021, at the Cannon Beach City Hall, and public may participate through phone, video-conference or when possible, in-person, in Council Chambers, 163 E. Gower St.

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 and if you wish to speak at the hearing, please let our offices know by noon, the day 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](mailto:hillenhagen@ci.cannon-beach.or.us).

Sincerely,

Katie Hillenhagen  
Administrative Assistant

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



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

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, September 23, 2021** at **6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

**VAC 21-01**, 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.

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](mailto: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](mailto:adams@ci.cannon-beach.or.us).

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



Jeffrey C. Adams, PhD  
Director of Community Development

Posted/Mailed: **September 1, 2021**

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

City of Cannon Beach, P. O. Box 368, Cannon Beach, OR 97110  
(503) 436-1581 • FAX (503) 436-2050 • TTY: 503-436-8097 • [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us)





**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.



VAC 21-01						
Clatsop County						
TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE    Regional contact
51019AB00900	794 Oak Ct	Megan Kathleen Gill	01740 SW Military Rd	Portland	OR	97219
51019AB00902		Oregon Parks and Recreation Dept	725 Summer St #C	Salem	OR	97301    Tabitha Henricksen, Property Unit Tabitha.henricksen@oregon.gov, 503-339-6806; Justin Parker, District Manager, Justin.Parker@oregon.gov
51019AB01000		Clatsop County Attn: Sirpa Duoos, Property	820 Exchange St. Suite 230	Astoria	OR	97103
51019AB02400	784 Oak Ct	Kelly A Orfield	3116 SE 303rd Ave	Washougal	WA	98671





VAC 21-01, Clatsop County

**SITE MAP:** Areas to be vacated are outlined in **RED**, noticed properties are shaded **BLUE**





[illegible]







# Memo

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## RE: Nicholson Planned Development Living Wall Monitoring Report

### Introduction

On August 11, 2020, the Community Development Director and Planning Commission Chairman Daryl Johnson brought the 2020 Planning Commission's Recommendations on the Cannon Beach Preservation Subdivision Living Wall before the City Council for discussion. The City Council requested staff to pursue legal advice on the Homeowner's Association (HOA) requirement, while pursuing HOA arrangements and planting plans for the Living Wall with the current owners.

Staff has been in contact with representatives of the Cannon Beach Preservation Subdivision during the past year and draft By-Laws have been produced for the North Laurel Homeowner's Association, but as of this writing, they have not been finalized. The finalization of the HOA agreement has been complicated by the appeal of the administrative approval of the building permit pulled for 544 N. Laurel St., for MJ Najimi's single-family residence on Lot 1 of the Planned Development. The appeal over-turned the administrative decision and made its way to the Land Use Board of Appeals (LUBA), where the state board upheld the City's decision to have the turret removed yet cautioned the City against delving into past land use decisions regarding the planned development.

Following the LUBA decision and upon evidence from the signed Findings of the March 8, 2016 Final Plan Approval, where the City Council approved the earlier PC stage two findings not requiring an HOA, excerpted and copied below:

Finally, subsection C.1 requires that the applicant submit ... *Copies of the legal documents required by the commission for dedication or reservation of public facilities, or for the creation of a nonprofit homes association.* This subsection is a submittal requirement. The first part of this requirement is not applicable because there are no dedications or reservations of public facilities. The proposed driveway will be a private shared facility, not a public street. Municipal utilities (water and sanitary sewer) will be public within the Laurel Street right-of-way, and private on the subject property. The second part of this requirement is also not applicable because there is no required nonprofit homes association for this project. The applicant has indicated that they will

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not be creating a homeowners association because the functions of a homeowners association can be met by deed restrictions and easements. The City's code does not require the creation of a homeowners' association. Documents submitted by the applicant at the City Council's March 1, 2016 hearing are sufficient to meet the City's needs.

CBMC 17.40.040.C.1 establishes the major substantive approval criteria for final approval of a planned development and some submittal requirements. Based on the City's previous stage 2 approval, on information provided by the applicant, on the City's staff reports, and on the reasoning in the preceding paragraphs, the City Council finds that the applicant's final plan submittal, subject to conditions, meets all of the requirements of CBMC 17.40.040.C.1. This criterion is met.

- 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 site will be subject to a common space easement and are therefore not private. Because no

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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.

There has been no evidence provided of a plant material evaluation, planting plan, or new contract with landscape professional, but as stated earlier, the HOA agreement has yet to be enacted to oversee any contractual landscape arrangement. Staff committed to yearly inspections for at least a three-year period at last year's PC review and will continue to monitor the progress of the Living Wall.

## 2020 Recommendation

The Planning Commission finds that the error was in not having a certified or registered landscape architect contracted to do the initial plantings and oversee the implementation, and the subsequent development. The PC recommends that the City demand an Home Owners Association (HOA) be formed, as required by CBMC 17.40.030(G)(2), which will oversee a contract with a registered or certified landscape architect to assess the current state of the planting and develop a planting materials plan that will supplant and replace the current planting list. This contract will be executed with the City's approval and will have a timeline of completion and a timeline, with performance measures, for monitoring of improvements. City staff will provide a report to the City Council upon completion of the improvements and a yearly monitoring report for at least three years.

Staff inspected the Living Wall on June 29, 2021, documenting the growth and development of the planting materials with the attached photos. Virtually every planter box has established sword-ferns or salal and many are thriving, obscuring the concrete base. There has been significant growth in much of the sword-ferns over the past year, while the salal seems to be slower to establish. However, as can be seen in the photos provided, the salal is putting out shoots and runners and should, with continued care, fill-in the remaining areas in the next couple years.

















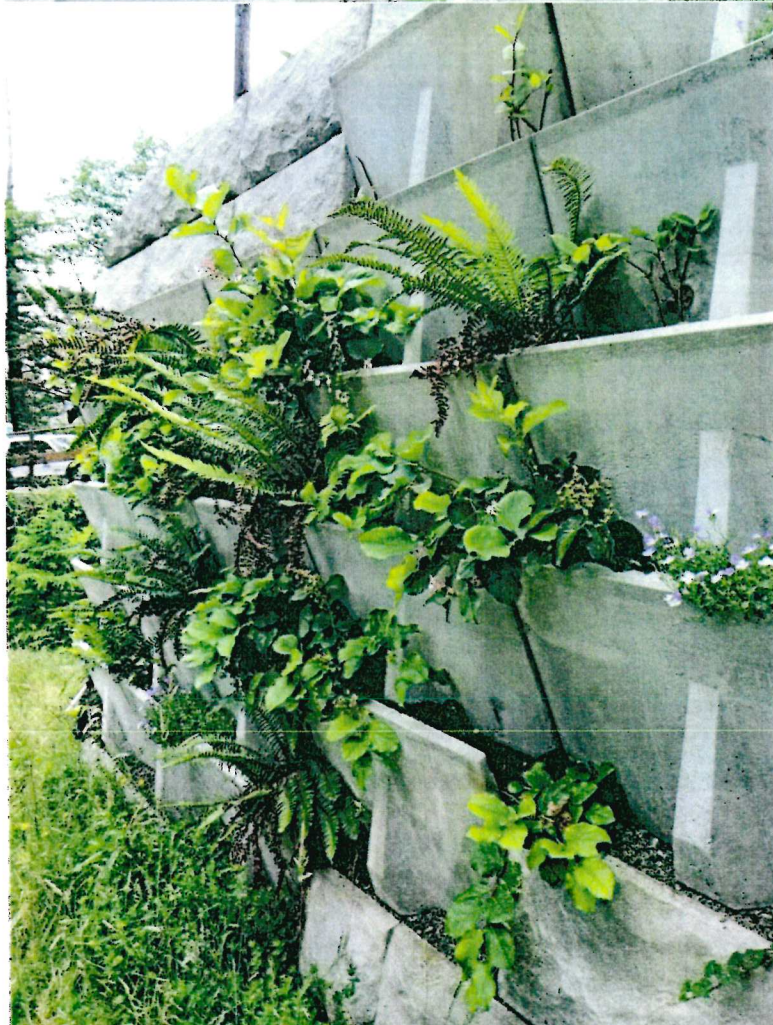






































As you know, the Cannon Beach Friends of the Trees is dedicated to the growth, stewardship and preservation of the trees of our community, as a living legacy for present and future generations. We celebrate the fact that trees make our town a beautiful, healthy place to live and to visit. Trees have the ability to draw carbon out of the atmosphere and thus help mitigate the negative effects of climate change. Trees are valuable in so many varied ways and they deserve our respect and protection.

Many in our community have noticed an exponential loss of our Cannon Beach trees in the past year or two. In our estimation, this has been due to a combination of factors. Residents are upset that what many thought were strict rules of tree protection have either not been enforced or need to be strengthened even further to achieve the benefit which trees can bring to our community as a whole.

Of course, there may be times when a particular tree may really need to be cut down, but it is our hope, that this will more and more become the exception, rather than the rule, as we work together to develop an ever greater appreciation for our tree population, with clear protections to nurture and retain them, and in the hopefully rare instances where removal is truly necessary, to plant replacement trees as near to the original location as possible.

It has recently been brought to our attention that in some communities, before any tree is allowed to be cut down, there is a 'tree committee' review. If approved for removal, a dollar amount is assigned to that tree and it is not an insignificant amount. A list of

replacement trees is provided, as we also do here already in Cannon Beach and then the City oversees the replanting and requires the property owner to make certain that the tree is well looked after until it gets established. In this approach, trees are treated more like valuable real estate rather than something of little worth. We would like to look into this option for our community going forward.

One other item for all of us in Cannon Beach to consider is limiting somewhat the size of new homes being built. The increase in the Floor Area Ratio over the past 30 years has contributed significantly to the loss of many of our trees. We ask that some serious consideration be given to this concern as you work with the question of new home sizes and accessory dwelling units during your code audit review process.

Thanks again to all of you for your support of the Cannon Beach Heritage Tree Program, which is now being developed with the help of the Cannon Beach Parks and Community Services Committee and City Staff. We appreciate all you do to aid our town to follow our Tree City USA mission to 'inspire people to plant, nurture and celebrate trees.

We close this letter with our Cannon Beach Tree Protection goal from our own Cannon Beach Municipal Code, which is: 'to establish protective regulations for trees within the city in order to better control problems of soil erosion, land slide, air pollution, noise, wind and destruction of scenic values and wildlife habitat, and to protect trees as a natural resource which establishes the wooded character of the city.

*Please make sure our city staff and our city arborist can have the financial resources they need to better protect our community trees. We pledge our volunteer hours to assist whenever possible in this important endeavor.*

*Thank you,*

*Jan Siebert-Wahrmund*

*Cannon Beach Friends of the Trees*