



# CITY OF CANNON BEACH

## AGENDA

### IN PERSON ATTENDANCE OPTION NOW AVAILABLE

In the low-risk category, we can operate at 50% capacity. Council Chambers is limited to 20 audience members. Zoom option is still available. Mask/face covering/face shield and physical distance required unless City reviews proof of full vaccination upon entry into City facilities. Please visit this meeting page on our [website](#) for information on how to connect to Zoom, give public comment or review the mask policy.

Meeting: Planning Commission  
Date: **Thursday, June 24, 2021**  
Time: **6:00 p.m.**  
Location: Council Chambers, City Hall

6:00 CALL TO ORDER

#### ACTION ITEMS

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

6:03 (2) **Approval of the minutes from the May 27 meeting.**

6:05 (3) **Public Hearing and Consideration of ZO 21-01, Will Rasmussen request, on behalf of Haystack Rock LLC, for a zoning ordinance text amendment regarding notice requirements for development and conditional use permitting of new roads or driveways utilizing public rights-of-way.**

6:20 (4) **Public Hearing and Consideration of SR 21-04, James Adams & Kerry Burg, property owners of 264 W. Kenai Street, for a Setback Reduction of the rear-yard setback requirement for an accessory structure at an existing single-family residence.**

#### INFORMATIONAL ITEMS

6:35 (5) **Tree Report**

(6) **Ongoing Planning Items:**

**Transportation System Plan: Interactive Online Open House, @ [www.cannonbeachtsp.com](http://www.cannonbeachtsp.com)**

(7) **Good of the Order**

6:45 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*

**PO Box 368 Cannon Beach, Oregon 97110 • (503) 436-1581 • TTY (503) 436-8097 • FAX (503) 436-2050**  
**[www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) • [cityhall@ci.cannon-beach.or.us](mailto:cityhall@ci.cannon-beach.or.us)**

*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: June 17, 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)

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## Virtual Participation & Public Comment for Meetings:

If you wish to provide public comment as a virtual meeting participant, you must submit it by **noon**, the day of the meeting, to [planning@ci.cannon-beach.or.us](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, March 25, 2021

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

Excused: Charles Bennett

Staff: Director of Community Development Jeff Adams, IT Director Rusty Barrett 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; Kerr seconded the motion.

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

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

Bernt pointed out some spelling errors in the minutes. They will be corrected in the final draft.

Motion: Knop moved to approve the minutes as amended; Patrick seconded the motion.

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

**(3) Review of a Zoning Ordinance Amendment request by Will Rasmussen on behalf of Haystack Rock LLC, for a text amendment regarding notice requirements for development permitting of new roads or driveways utilizing public right-of-ways.**

Chair Johnson asked for the staff report.

Adams read the staff report (see packet for full details). He thanked Will Rasmussen for working with him on this. He said that City staff are working toward the posting of public notices, and they hope to unveil that soon. Understands concerns about notice related to new roadway access. He and Rasmussen have been discussing and bouncing language back and forth. What resulted from that is the drafted language that the Commission is presented with today. He noted that Rasmussen asked to speak. He went over the changes from the last time they looked at this. In the proposed wording a new road, driveway, or access that is more than 50 feet in length and is in either the Ocean Management Overlay Zone (OMOZ) or in a wetlands buffer area would come before the Planning Commission (PC) as a conditional use.

Kerr asked about the organization of the wording within the code. It is in 42.060 under the oceanfront management overlay. Why is it not under the wetlands overlay? What happens to a wetland that is not in the OMOZ?

Adams said that it was previously under the development permit wording. Now it is being upgraded to a conditional use in the wetland area. It will be organized under conditional uses.

In reviewing the language, Kerr was surprised that you could get a conditional use for a subdivision in the wetlands.

Rasmussen was surprised people would be allowed to put a new road in the oceanfront management zone without coming before the PC. Adams pointed out to him that this was also the case in the wetlands. The conditional use triggers notice and brings it before the PC. This works for his purposes and does not create too much extra work for staff. Rasmussen asked that the PC hear this as soon as possible.

Kerr expressed her surprise that you could do these things without a conditional use permit.

Adams agreed and said he thought that is why they should include the wetlands.

Kerr said she is glad he did.

Adams said this will be further reviewed in the code audit, but Rasmussen requested this change right away.

Kerr said it was great and thought it was important that they do it right away.

Bernt asked if it would still be a priority to post all development permits.

Adams said he would work on that when he got back.

Kerr asked if Adams would like her to send the link to the example from Clatsop County.

They discussed and clarified that the County does it for all land use applications.

Newton felt there was an issue they needed to address. He noted that they are in the middle of a lawsuit and to change the zoning in a way that is related to that case is concerning. He thought it would be more appropriate to bring it forward when they are bringing forward other issues. He is concerned about having a specific hearing on a code change when they have shelved other code changes.

Adams said that it is a legitimate concern and he had asked Bill Kabeiseman (City Land Use Attorney) about it. He noted that this was a public process. Other members of the community will have their chance to weigh in. An application has been put in so we should treat it just as we should any other application. Adams said he will have Kabeiseman speak to that at the next meeting.

Kerr did not see the issue because the lawsuit is about a different issue. She would like to see them act on all the zoning changes as soon as possible, but this is the only one they have wording for.

Johnson agreed that the Roberts would not be affected by this because they are already in the process.

Rasmussen pointed out that the Roberts pending cases are related to their private property and not the right of way. He thought this code change would not be high risk, in a legal sense, and encouraged the Commission to consult with Kabeiseman.

Newton noted that the Roberts have come before them many times, why not come again if they feel they are singled out. He said he would feel comfortable hearing it at the next meeting with comment from Kabeiseman.

Patrick felt the Roberts should be excluded until their issues are cleared up.

The Commission discussed if the proposed change would be relevant to the Roberts' case and whether the Roberts would have to abide by the new change. It was pointed out that their current application does not include a road.

They wrapped up the discussion and agreed that it should come back as a hearing at their next meeting.

Adams also wanted to mention the Transportation System Plan. A webinar about the process will be on June 3<sup>rd</sup>. There is also an online survey.

A couple of commissions had questions for Adams about construction happening in town and how building height is calculated.

Adams explained that the construction on 5<sup>th</sup> St. is a new residence, and he went over how building height is calculated.

#### INFORMATIONAL ITEMS

(8) Tree Report

No comments.

(9) Ongoing Planning Items

Adams said that Jan Siebert Wahrmund brought a Heritage Street type program before Council and they gave the thumbs up for that to move to Parks.

He said that they sent the scope of work to the code audit applicant so that is moving forward.

(10) Good of the Order

Kerr asked about the living wall issue.

Adams said that he understood that they had replaced a bunch of plants, but he has not gone out to inspect.

Kerr said it still does not look great.

They briefly discussed the pending LUBA cases and LUBA produres.

#### ADJOURNMENT

The meeting adjourned at 6:30 pm.

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Administrative Assistant, Katie Hillenhagen



# Cannon Beach Planning Commission

## Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **ZO 21-01**, WILL RASMUSSEN APPLICATION, ON BEHALF OF HAYSTACK ROCK LLC PROPERTY OWNERS, REQUESTING A TEXT AMENDMENT OF THE CANNON BEACH MUNICIPAL CODE TITLE 17 ZONING REGARDING NOTICE AND PROCEDURAL REQUIREMENTS FOR DEVELOPMENT AND CONDITIONAL USE PERMITTING WHEN EXTENDING ACCESS AND UTILIZATION OF PUBLIC RIGHTS-OF-WAY LOCATED IN OCEANFRONT MANAGEMENT, STREAM CORRIDOR AND WETLAND OVERLAY AREAS. THE REQUEST WILL BE REVIEWED AGAINST THE CRITERIA OF THE MUNICIPAL CODE, SUB-SECTION 17.86.070.A, AMENDMENT CRITERIA.

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**Agenda Date:** June 24, 2021

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

## GENERAL INFORMATION

### NOTICE

Public notice for this June 24<sup>th</sup>, 2021, Public Hearing is as follows:

- A. Notice was posted at area Post Offices on June 17th, 2021;
- B. Notice was provided to the Oregon Department of Land Conservation and Development as required by ORS ;

### 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 March 12, 2021 unless otherwise noted.

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

**A-1** Application packet, including **ZO 21-01**, Received March 12, 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**



## **BACKGROUND**

Will Rasmussen, on behalf of Haystack Rock LLC,

## **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;

#### **Staff Comments:**

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

#### **GENERAL DEVELOPMENT POLICIES**

4. The City shall control excavation, grading, and filling in order to: avoid landslides and other geologic hazards; protect adjacent property and structures; provide for appropriate drainage improvements; minimize the extent of vegetation removal; minimize erosion and sedimentation; and protect the aesthetic character of the City.

14. To ensure that development is designed to preserve significant site features such as trees, streams and wetlands.

#### **RECREATION, OPEN SPACE, NATURAL, VISUAL, AND HISTORIC RESOURCES POLICIES**

11. Vegetation and tree cover along the ocean front shall be managed in a manner which retains its erosion control capabilities and maintains its contribution to the scenic character of the beach.

25. To protect, enhance and restore the functions and values of riparian corridors, which include water quality protection, storm and flood water conveyance, fish and wildlife habitat, and open space.

#### **PUBLIC FACILITIES AND SERVICES STREETS POLICIES**

1. The city shall prepare and adopt minimum street improvement standards.
2. The City shall accept streets into the City system only after they have been improved to City standards.

#### **STREETS GUIDELINES AND RECOMMENDATIONS**

1. Alternative transportation uses of City rights-of-way should be considered where they are not needed for streets. These uses may include bike paths and walking trails. (Ord 95-04; Res 79-02)

2. The City Council may consider blocking of streets which constitute public safety hazards because of poor visibility or steepness if other access is available.

#### **CITIZEN INVOLVEMENT POLICIES**

1. Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.

2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.

**Staff Comment:**

The criteria for approval of a zoning ordinance amendment are rather brief. The Planning Commission must only 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 proposed text amendments should have very little implications for service delivery and should only assure that the citizens have more input on the extension of services and access to environmentally sensitive areas. It may appear from driving our current transportation network that there are very few areas where an extension of a roadway or point of access might impact sensitive lands, but as land grows scarce within the Cannon Beach City Limits and the Urban Growth Boundary, more and more pressure will be placed on these areas.

Staff has attached a Right-of-Way Constraints map indicating where wetland, stream corridor and oceanfront management areas cross Rights-of-Way in Cannon Beach. The proposed language clarifies that any new access, driveway or roadway expansion over fifty linear in the oceanfront management zone and any expansion in a stream corridor or wetlands area triggering public notice and conditional use review before the Planning Commission.

**Procedural Requirements**

This application is not subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete, since it is a legislative application.

The Planning Commission's June 24th meeting will be the first evidentiary hearing on this revised request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission's next regularly scheduled hearing date is July 22<sup>nd</sup>, 2021.

**STAFF RECOMMENDATION**

Staff recommends approval.

**PLANNING COMMISSION ACTION**

**MOTION:** Having considered the evidence in the record, I move to *tentatively* (approve/approve with conditions/or deny) the Rasmussen application, on behalf of Haystack Rock LLC, for text amendments to Title 17 Zoning, Chapters 42, Oceanfront Management Overlay Zone, 43, Wetlands Overlay Zone, and 71, Stream Corridor Protection, application **ZO#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, July 1<sup>st</sup>, 2021 at City Hall.





## REVISED ZONING ORDINANCE TEXT AMENDMENT LANGUAGE

May 2021

### Chapter 17.42 OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE

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

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

F. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: ~~in addition to the uses permitted in the underlying zone,~~ the following uses and activities are permitted subject to provision of Chapter 17.80, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.80.230;
2. Non-structural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5). (Ord. 20-03 § 2)
3. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access.

### Chapter 17.43 WETLANDS OVERLAY (WO) ZONE

#### 17.43.030 Uses and activities permitted outright in wetlands.

The following uses and activities may be permitted in the wetlands portion of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and if permitted outright in the base zone:

- A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;
- B. Accessory structure or building, as provided for by Section 17.54.030;
- ~~C. Roads or driveways, including an expansion of an existing right-of-way;~~
- D. Underground or above-ground utilities;
- E. Vegetation management. (Ord. 94-29 § 2)

#### 17.43.035 Uses and activities permitted outright in wetland buffer areas.

The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and, if permitted outright in the base zone:

- A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;
- B. Accessory structure or building, as provided for by Section 17.54.030;
- ~~C. Roads or driveways, including an expansion of an existing right-of-way;~~
- D. Underground or aboveground utilities;
- E. Vegetation management. (Ord. 94-29 § 2)

#### **17.43.040 Conditional uses and activities permitted in wetlands.**

The following uses and activities may be permitted subject to the provision of Chapter 17.80 in the wetland portion of the WO zone, subject to applicable standards, if permitted outright or conditionally in the base zone:

- A. Commercial structures;
- B. Excavation;
- C. Wetland enhancement;
- D. Compensatory mitigation;
- E. Roads or driveways, including an expansion of an existing right-of-way;
- ~~E.F.~~ Footpaths;
- ~~F.G.~~ Point-source stormwater discharge;
- ~~G.H.~~ Alternative stormwater management practices;
- ~~H.I.~~ Subdivisions, replats, partitions and property line adjustments. (Ord. 94-29 § 2)

#### **17.43.045 Conditional uses and activities permitted in wetland buffer areas.**

The following uses and activities may be permitted subject to the provision of Chapter 17.80 in wetland buffer areas in the WO zone, subject to applicable standards, if permitted outright or conditionally in the base zone:

- A. Commercial structures;
- B. Excavation;
- C. Wetland enhancement;
- D. Compensatory mitigation;
- E. Roads or driveways, including an expansion of an existing right-of-way;
- ~~E.F.~~ Bicycle paths;
- ~~F.G.~~ Footpaths;
- ~~G.H.~~ Point-source stormwater discharge;
- ~~H.I.~~ Subdivisions, partitions, lot line adjustments. (Ord. 94-29 § 2)

## **Chapter 17.71 STREAM CORRIDOR PROTECTION**

#### **17.71.040 Uses and activities permitted.**

The following uses and activities may be permitted in the stream buffers established by Section 17.71.030, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to the applicable standards of Section 17.71.060.

- A. Transportation structures including bridges, bridge crossing support structures, and culverts ~~and roads;~~
- B. Underground or aboveground utilities;
- C. Vegetation management;

- D. Bank stabilization;
- E. Maintenance and improvement of the stream corridor for storm drainage purposes;
- F. Stormwater discharge. (Ord. 94-30 § 2)

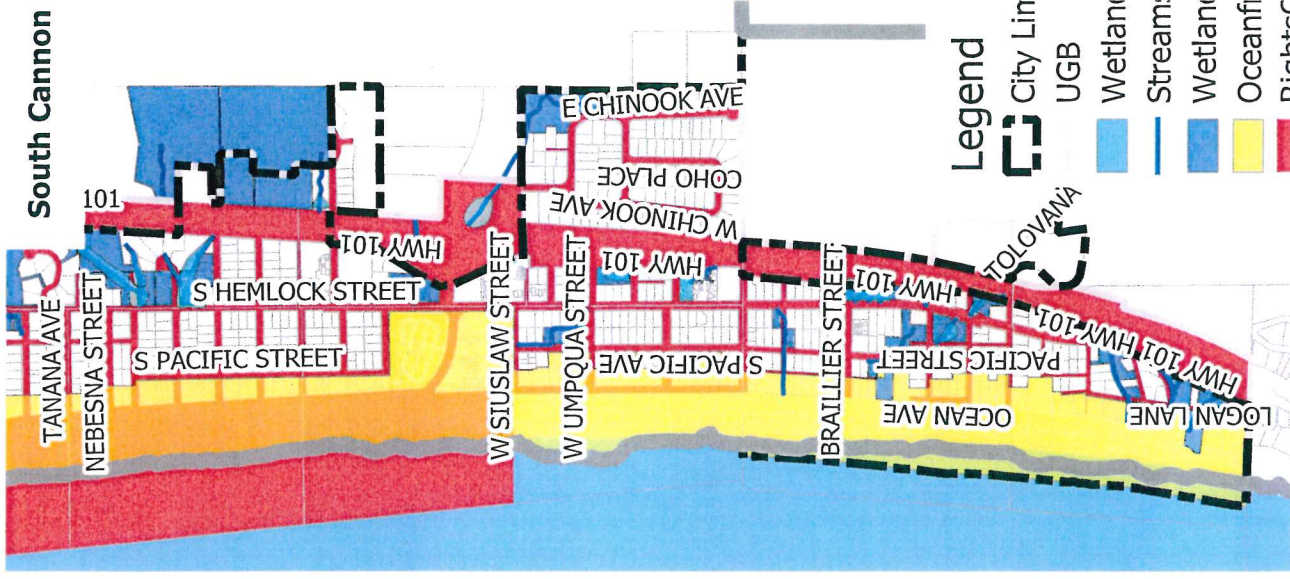
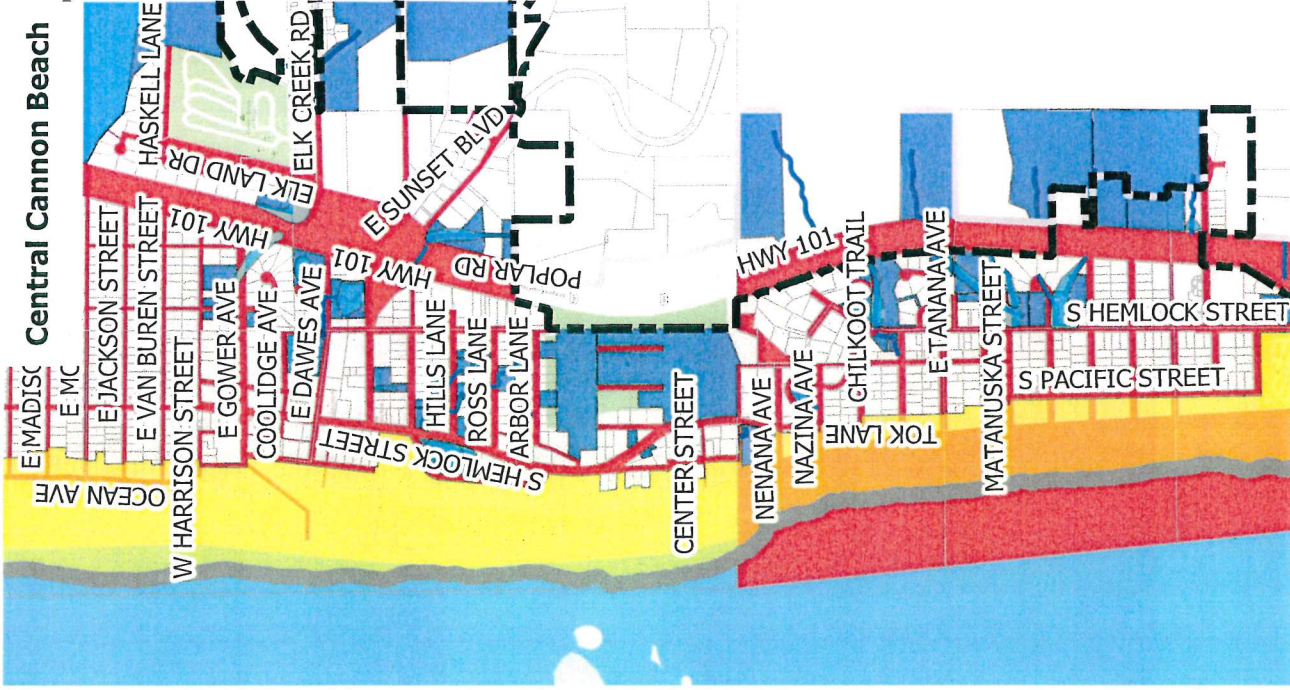
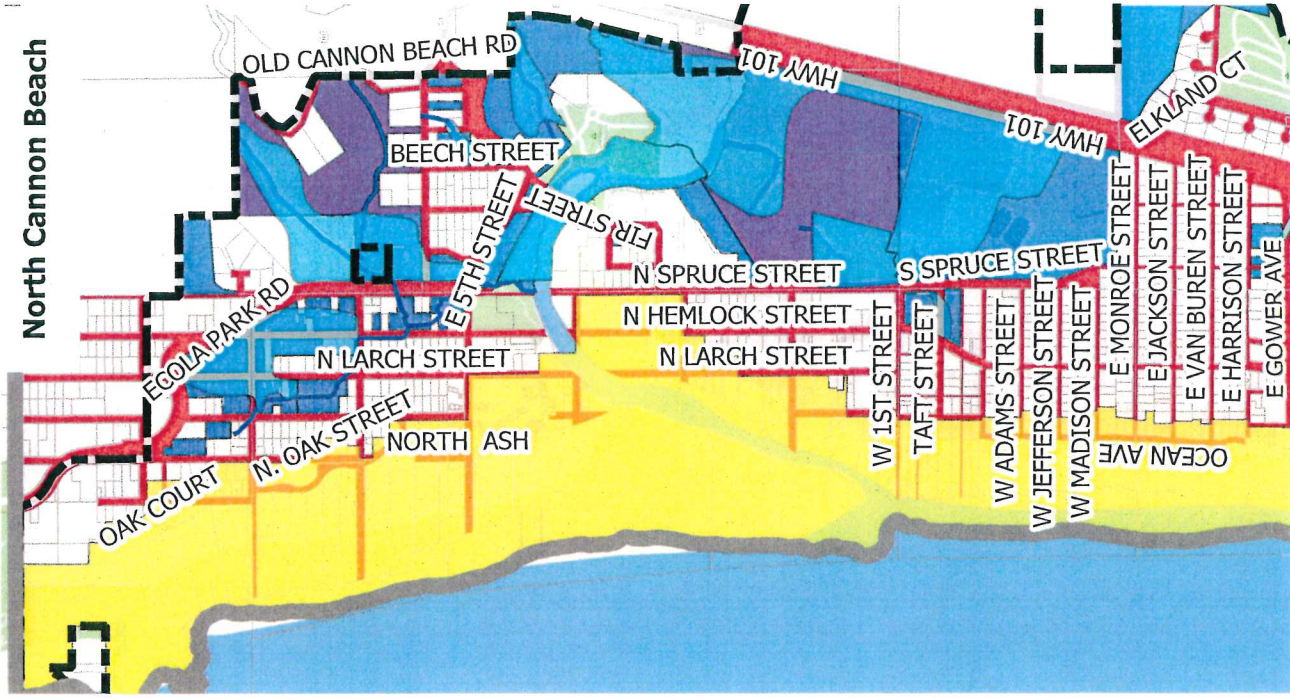
**17.71.045 Conditional uses and activities permitted.**

The following uses and activities may be permitted in the stream buffers established by Section 17.71.030, subject to the issuance of a conditional use permit in accordance with Section 17.80.070, and subject to the applicable standards of Section 17.71.060.

- A. Roads or driveways, including an expansion of an existing right-of-way;







# Right of Way Constraints







MAR 12 2021

Received

**CITY OF CANNON BEACH  
AMENDMENT TO THE ZONING ORDINANCE TEXT**

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

Applicant Name: Haystack Rock, LLC  
Mailing Address: c/o Will Rasmussen, Miller Nash Graham & Dunn LLP  
111 S.W. Fifth Avenue, Suite 3400, Portland, Oregon 97204  
Telephone: 503.224.5858  
Property-Owner Name: \_\_\_\_\_  
(if other than applicant)  
Mailing Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Property Location: \_\_\_\_\_  
(street address)  
Map No.: \_\_\_\_\_ Tax Lot No.: \_\_\_\_\_

**AMENDMENT TO THE ZONING ORDINANCE REQUEST:**

1. Description of the proposal.  
See attached letter.
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.  
See attached letter.

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

**Fee:** \$1000.00

Applicant Signature: [Signature] Date: 03.09.21  
Property Owner Signature: [Signature] Date: 03-08-21

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:*

Received on: \_\_\_\_\_ By: \_\_\_\_\_  
Fee Paid: \_\_\_\_\_ Receipt No.: \_\_\_\_\_





**William L. Rasmussen**  
william.rasmussen@millernash.com  
503.205.2308 direct line

March 9, 2020

**VIA E-MAIL**  
**ADAMS@CI.CANNON-BEACH.OR.US**

Mr. Jeffrey Adams  
City of Cannon Beach  
Post Office Box 368  
163 E. Gower Street  
Cannon Beach, Oregon 97110

**Subject:** Proposed Amendments to Cannon Beach Municipal Code ("CBMC") for  
Major Improvements in Oceanfront Overlay Zone Right-of-Way

Dear Mr. Adams:

Below are proposed minor amendments to three CBMC sections. Requested revisions are underlined in blue. This narrow amendment is purely procedural and intended to ensure that neighboring property owners get notice of development proposals for unimproved Nenana Avenue (and similarly situated unimproved right-of-way in the Oceanfront Overlay Zone). We also suggest clarifying the appropriate public process for reviewing significant access proposals in the Oceanfront Overlay.

**Current Public Notice Provisions for Development in Unimproved Right-of-Way in the Oceanfront Management ("OM") Overlay**

The current code appears to require notice for much of the work that the Robertses seek to do in the unimproved Nenana Avenue. For instance, public notice is currently required for:

- Stormwater outfalls and facilities in the OM Overlay. CBMC 17.42.030(E).
- Cutting of trees in the right-of-way. CBMC 17.70.030(I).



- Construction or repair of sidewalks (posting of sign only).  
CBMC 12.04.010.
- Improvements subject to design review, including those affecting visual appearance of the beach, street improvements with design elements (landscaping, lighting, sidewalks), and construction of sidewalks.  
CBMC 17.44.040(F)(1). (Note that design review approval is required before site clearing, grading, filling, etc., begins. CBMC 17.44.030(A).)
- Certain grading/fill that triggers the need for a development permit.  
CBMC 17.88.010(A)(6).

Nothing prevents application of these provisions to proposals within the right-of-way. In fact, they explicitly apply within the right-of-way. Nonetheless, the Robertses have twice received right-of-way permits from the City, with no notice to neighbors despite request for such notice. Each such permit resulted in damage to public trees in Nenana in violation of CBMC 17.70.030(J) and code enforcement actions from the City.

More troubling, the Robertses appear to think that they can propose and obtain approval for any new road or access way design in City-owned, unimproved Nenana without a public process. Given the express purpose for the Oceanfront Overlay Zone in CBMC 17.42.010 and underlying comprehensive plan provisions, such notice and process is necessary.

Below are narrow code amendments to require such notice and ensure Planning Commission and Council review for such proposals. We propose amendments that (1) clearly require notice to requesting property owners of anticipated permits in these natural, oceanfront, publicly owned areas, and (2) provide a reasonable public process for review of major proposals.

We propose the following narrow amendments:

### **Notice to Nearby Neighbors Who Request Notice**

Many cities will provide notice of permit decisions to parties that request such notice. At a minimum, it seems appropriate to provide notice to neighbors who have requested such notice. We request the following amendment:





**17.92.010 Development permits.**

**C. Administrative Review of Development Permits.**

1. *Administrative Review of Type 1 Development Permits.* The building official shall issue a development permit to the applicant if the building official finds that the work described in an application for a development permit and the plans, specifications, and other data filed with the application conform to the requirements of this title, and any conditions imposed by a reviewing authority. The building official shall concurrently provide notice of the decision to any property owner within 200 feet of the exterior boundary of the property who has requested notice of such permit decisions within the prior twelve months. A decision of the building official may be appealed to the planning commission in accordance with Section 17.88.140.

**17.62.030 Grading and erosion control permit.**

**A. Development Permit Required.**

1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:

a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland; or

\* \* \*

d. The proposed clearing, grading, filling, or excavation is located within right-of-way subject to the Oceanfront Management Overlay Zone.

4. A development permit for regulated activities not in conjunction with building permit, subdivision, or partition shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(2). However, notice to adjacent property owners, as specified by Section 17.92.010(C)(2)(d), is not required unless such notice has been requested as provided in subsection 5 below.

5. In addition to notice specified by other code sections, the building official shall provide notice of applications and decisions for a development permit pursuant to this section to any property owner within 200 feet of the exterior boundary of the property who has requested notice of such applications within the prior twelve months.





## **Clear Process to Review New Major Roads and Access Ways in OM Overlay Right-of-Way**

The code does not uniformly specify which process is most appropriate for reviewing new road or major access proposals in right-of-way subject to the OM Overlay. Currently, the type of review appears driven by the way staff classifies the proposal and by design elements and vegetation impacts in the proposal. We request the following amendment:

### ***Chapter 17.42 OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE***

#### ***17.42.030 Uses and activities permitted.***

\* \* \*

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

- 1. Shoreline stabilization, subject to the provisions of Section 17.80.230;*
- 2. Nonstructural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5);*
- 3. Preservation grading, subject to the provisions of Section 17.42.060(A)(3);*
- 4. Remedial dune grading, subject to the provisions of Section 17.42.060(A)(4);*
- 5. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way and that is within 250 feet of a stream or wetland mapped on the Cannon Beach Local Westland Inventory.*

\* \* \*

*F. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provision of Chapter 17.80, Conditional Uses:*



1. *Shoreline stabilization, subject to the provisions of Section 17.80.230;*
2. *Non-structural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5). (Ord. 20-03 § 2);*
3. *A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way and that is within 250 feet of a stream or wetland mapped on the Cannon Beach Local Wetland Inventory.*

### **Proposed Amendment Compliance with Approval Criteria**

CBMC 17.86.070 provides the approval criteria for zoning code text amendments:

*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;*
2. *The amendment will not adversely affect the ability of the city to satisfy land and water use needs.*

The proposed amendments are nonsubstantive, procedural clarifications that apply in limited situations around the City. Nonetheless, many comprehensive plan policies support adoption of this amendment, and none argue against it. Below is an analysis of the applicable comprehensive plan policies:

***General Development Policy 4.*** *The City shall control excavation, grading, and filling in order to: avoid landslides and other geologic hazards; protect adjacent property and structures; provide for appropriate drainage improvements; minimize the extent of vegetation removal; minimize erosion and sedimentation; and protect the aesthetic character of the City.*

The proposed amendments further this policy by ensuring development review of clearing and grading proposals within OM Overlay right-of-way. The City has twice granted right-of-way permits to the Robertses in these areas without development review, and unauthorized damage has twice resulted to City trees and other vegetation in violation of the zoning code. The OM Overlay applies exclusively to oceanfront areas.



Mr. Jeffrey Adams  
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Page 6

These areas are important to the aesthetic character of the City as noted in this policy and CBMC 17.42.010.

***General Development Policy 14.*** *To ensure that development is designed to preserve significant site features such as trees, streams and wetlands.*

The proposed amendment effectuates this policy by ensuring development review of clearing and grading proposals within OM Overlay right-of-way that could impact significant site features such as trees, streams, and wetlands.

***General Development Policy 15.*** *The City shall regulate the removal of trees in order to preserve the City's aesthetic character, as well as to control problems associated with soil erosion and landslide hazards.*

The proposed amendment effectuates this policy by ensuring development review of clearing and grading proposals within OM Overlay right-of-way that could cause tree removal directly or indirectly, as well as soil erosion and landslide hazards.

***Transportation Policy 7.*** *Access to Hemlock Street and U.S. 101 shall be limited. Wherever possible, traffic from development shall enter these roads from shared access points or streets, rather than individual driveways.*

The proposed amendment furthers this policy by enabling review of new access proposals to Hemlock within OM Overlay right-of-way that might be better served by alternative proposals.

***Transportation Policy 10.*** *The city will continue to emphasize the use of land-use techniques and appropriate pedestrian, bicycle and transit improvements as a means of reducing the demand for motor vehicle trips.*

The proposed amendment effectuates this policy by enabling land use review of transportation improvements within OM Overlay right-of-way. The current disconnect between Public Works review and development review in these areas undermines this policy.





***Area Specific Hazards Policy 1.*** *The Curves Area (Tolovana Hill): Further development within the large active landslide on either side of Hemlock must be carefully planned and closely monitored.*

The proposed amendment effectuates this policy by enabling development review of proposals within the right-of-way at the base of Tolovana Hill. Much of the City's unimproved right-of-way within the OM Overlay lies in unimproved Nenana Avenue and unimproved Nazina Avenue at the base of Tolovana Hill. New access proposals in these areas cannot be "carefully planned" as called for in this policy without planning review. This policy strongly calls for adoption of the proposed amendments.

***Geologic Hazards Policy 2.*** *Development requirements for the City are: a. Structures should be planned to preserve natural slopes. Cut and fill methods of leveling lots shall be discouraged. b. Access roads and driveways shall follow the slope contours to reduce the need for grading and filling. c. Removal of vegetation shall be kept to a minimum for stabilization of slopes. d. Drainage patterns shall not be altered in steeper areas. Roof drains shall be channeled into natural drainage or storm sewers. e. No development shall be allowed to block stream drainage ways, or to increase the water level or water flow onto adjacent property.*

The proposed amendments help effectuate this policy by ensuring development review of clearing and grading proposals within OM Overlay right-of-way. Without such review, consideration of access contours, drainage alterations, and extent of vegetation removal may not be known or considered in the OM Overlay right-of-way.

***Recreation, Open Space, Natural, Visual, and Historic Resources Policy 11.*** *Vegetation and tree cover along the ocean front shall be managed in a manner which retains its erosion control capabilities and maintains its contribution to the scenic character of the beach.*

The proposed amendments support this policy by ensuring development review of clearing and grading proposals along the oceanfront within the OM Overlay right-of-way that could impact erosion control and scenic character along the oceanfront.

***Procedural Policy 1.*** *The City Planning Commission is primarily responsible for the administration of the Plan and land use ordinances.*



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March 9, 2020  
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The proposed amendment strongly supports this policy. Currently, the Planning Commission could be excluded from the City process to review access proposals in the OM Overlay, depending on design features and how City staff categorize the proposal. The Robertses appear to think that they can permit a new road or long access drive with no public process though Public Works review. While this belief is wrong, the amendment remedies this situation by specifying an appropriate review process for major access proposals that would have substantial impacts along the oceanfront.

The Comprehensive Plan speaks for itself in supporting the proposed amendments. It would be unconscionable for the City to consider new major access proposals in the OM Overlay with no public process.

The second criterion for code text amendments is that the *"amendment will not adversely affect the ability of the city to satisfy land and water use needs."* The proposed amendments are only procedural, so they are consistent with this criterion. By providing notice and clarifying the public process, the City can better understand and assess the impacts on land and water needs of new proposals in the OM Overlay right-of-way. Citizen Involvement is Oregon Statewide Planning Goal 1, and the foundation of all other Goals.

We respectfully request that the City approve the proposed code amendments. Please let me know if you have any questions or would like to discuss.

Very truly yours,



William L. Rasmussen





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

The Cannon Beach Planning Commission will hold a public hearing on **Thursday, June 24, 2021 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:

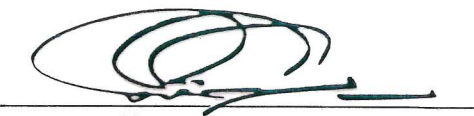
**ZO 21-01**, Will Rasmussen on behalf of Haystack Rock LLC, for a text amendment regarding notice and procedural requirements for conditional use permitting when extending access and utilization of public rights-of-way located in oceanfront management and wetland overlay areas. The request will be reviewed against the criteria of the Municipal Code, Section 17.86.070.A, Amendments, Criteria.

**SR 21-04**, James Adams & Kerry Burg, application to allow a setback reduction to reduce the rear yard setback from the required 15 feet to 7 feet to rebuild the existing garage/shed, according to chapter 17.12 Residential Moderate Density Zone of the Municipal Code. The property is located at 264 W. Kenai St. (Tax Lot 06901, Map 41006BC) in the Residential Moderate Density (R1) zone. The request will be reviewed against the Municipal Code, Section 17.64.010, Setback Reduction, Provisions established.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at [planning@ci.cannon-beach.or.us](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: **June 2, 2021**

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





**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.



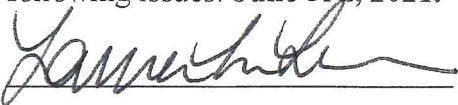
State Of Oregon

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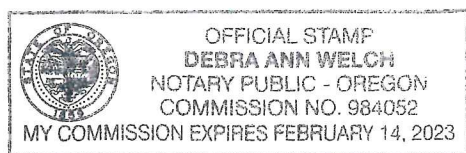
County Of Clatsop } ss.

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: **AB8268 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: **June 3rd, 2021.**



Signed and attested before me on  
the **4th** day of **June, 2021**  
by:



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

**AB8268**  
**NOTICE OF PUBLIC HEARING**  
**CANNON BEACH PLANNING COMMISSION**

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**ZO 21-01**, Will Rasmussen on behalf of Haystack Rock LLC, for a text amendment regarding notice and procedural requirements for conditional use permitting when extending access and utilization of public rights-of-way located in oceanfront management and wetland overlay areas. The request will be reviewed against the criteria of the Municipal Code, Section 17.86.070.A, Amendments, Criteria.

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.

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**Published: June 3, 2021.**







# Cannon Beach Planning Commission

## Staff Report:

PUBLIC HEARING AND CONSIDERATION OF **SR 21-04**, JAMES ADAMS & KERRY BURG APPLICATION, PROPERTY OWNERS, REQUESTING A SETBACK REDUCTION AT 264 W. KENAI (TAXLOT 41006BC06901) FOR A REDUCTION OF THE REAR-YARD SETBACK OF 15 FEET TO 7 FEET TO ALLOW FOR AN ACCESSORY STRUCTUE TO THE EXISTING RESIDENTIAL SINGLE-FAMILY HOME. THE PROPERTY IS IN THE RESIDENTIAL MODERATE DENSITY (R1) ZONING DISTRICT. THE REQUEST WILL BE REVIEWED UNDER CANNON BEACH MUNICIPAL CODE, SECTION 17.64.010, SETBACK REDUCTION, PROVISIONS ESTABLISHED.

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**Agenda Date:** June 24, 2021

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

## GENERAL INFORMATION

### NOTICE

Public notice for this June 24<sup>th</sup>, 2021, Public Hearing is as follows:

- A. Notice was posted at area Post Offices on June 17th, 2021;
- B. Notice was mailed on June 2nd, 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 May 26, 2021 unless otherwise noted.

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

- A-1** Application packet, including **SR 21-04**, Received May 26, 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** Cheryl & Stan Miller, Email correspondence, dated May 20, 2021;
- D-2** Shirley A Kronquist, letter, dated May 21, 2021;

## BACKGROUND

James Adams & Kerry Burg, property owners, are seeking a rear-yard setback reduction of 8 feet, reducing the required rear-yard from 15 feet to 7 feet, in order to expand the existing non-conforming accessory structure from approximately 280 square-feet to 330 square-feet at 264 W. Kenai St., taxlot# 41006BC06901.

The 5,000 square-foot (SF) Residential Moderate Density Zoned (R1) lot is located in the southern, Tolovona section of Cannon Beach. The 2,338 SF existing residence, according to the Clatsop County Assessor's Office records, was built in 1942, with the south-facing frontage fronting W. Kenai St., as shown on the aerial photograph and street-view at the end of this staff report.

The existing 280 square-foot non-conforming shed is located in the required rear-yard and there appears no evidence of any previous land use action sought pertaining to its location and was likely in existence prior to the adoption of the zoning codes. Due to Cannon Beach Municipal Code (CBMC) 17.82.040 Nonconforming structures would apply to the structure, requiring any enlargement or alteration increasing the non-conformity to seek a setback reduction or brought into conformity.

Cannon Beach Municipal Code chapter 17.64 Setback Reduction provides criteria of approval.

## APPLICABLE CRITERIA

### Setback Reduction

**17.64.010.A.1.** *Total building coverage shall not exceed forty percent.*

**Staff Comment:** Total building coverage proposed is for 1,485 square-feet (including the decking) of the existing structure, along with the proposed 330 square-foot expanded accessory structure, bringing the total coverage to 36% of the 5,000 square-foot lot. The proposed structure is well within the standards provided.

**17.64.010.A.2.** *Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district.*

**Staff Comment:** The proposed construction of the structure would not intrude into any existing viewsheds, as the proposed extension is an addition of three-feet away from the ocean and surrounded by heavily landscaped rear-yards.

**17.64.010.A.3.** *The proposed building location will not interfere with solar access of buildings on adjoining property.*

**Staff Comment:** Although no solar analysis has been provided, the solar impact to any adjoining properties should be negligible, especially considering the extension is for just three additional feet to the east.

**17.64.010.A.4.** *It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the planning commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:*

- a. Tree protection,*
- b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,*
- c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,*

- d. The provision of solar access,*
- e. Permitting construction on a lot with unusual configuration,*
- f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,*
- g. Protection of a wetland or wetland buffer area, or*
- h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.*

**Staff Comment:** The applicant has provided that “the setback reduction protects the neighboring property’s ocean view.” Considering that the applicant is wishing to preserve an existing somewhat historic structure, in keeping with the existing surrounding structures, rather than alternatives which might be more detrimental to neighboring views, this seems like a plausible alternative.

**17.64.010.A.5.** *Adjacent rights-of-way have sufficient width for utility placement or other public purposes.*

**Staff Comment:** The Public Works Department and Rural Fire Department have had an opportunity to comment and there appear to be no drainage or utility easement conflicts. The property falls adjacent to City water and sewer service.

**17.64.010.A.6.** *The reduction would not create traffic hazards; or impinge upon a public walkway or trail.*

**Staff Comment:** The proposal does not encroach into any public walkway or trail. There are no anticipated impacts to public traffic flow or which might cause any traffic hazard from this proposal and off-street residential parking will be provided on site.

**17.64.010.A.7.** *Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property.*

**Staff Comment:** As the proposed expansion is not seeking to extend beyond the five-foot side-yard setback to the eastern property and only extending in the rear-yard encroachment that already exists, this expansion should have negligible impact on privacy of the abutting properties.

**17.64.010.A.8.** *The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.*

**Staff Comment:** As mentioned above, the proposed expansion maintains five-foot side-yard and over seven-foot rear-yard setbacks for fire protective purposes.

## **Procedural Requirements**

This application is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. It was submitted May 26, 2021; and determined to be complete on June 1, 2021. Based on this, the City must make a final decision before October 1, 2021.

The Planning Commission’s June 24th meeting will be the first evidentiary hearing on this revised request. ORS 197.763(6) allows any party to request a continuance. If such a request is made, it should be granted. The Planning Commission’s next regularly scheduled hearing date is July 22<sup>nd</sup>, 2021.



## STAFF RECOMMENDATION

Staff recommends approval, with conditions.

## PLANNING COMMISSION ACTION

**MOTION:** Having considered the evidence in the record, I move to *tentatively* (approve/approve with conditions/or deny) the Adams & Burg application, for a eight-foot rear-yard setback reduction request of 15 feet to 7 feet, Cannon Beach Planning Commission application number **SR# 21-04**, 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, July 1<sup>st</sup>, 2021 at City Hall:

1. Prior to the issuance of a building permit, applicant shall provide a Tree Replacement Plan for the trees removed from the private property, as specified in Chapter 17.70.040 per 17.70.030(G).
2. An approved building permit through the City of Cannon Beach Building Official.

Site Map:



Street View, looking northwest from W. Kenai St.







*Cheryl & Stan Miller*

14547 S. Highway 21  
Republic, WA 99166

509-775-3431

206-714-2429

[camiller22@comcast.net](mailto:camiller22@comcast.net)

May 20, 2021

Jeff Adams  
Community Development Director  
City of Cannon Beach  
PO Box 368  
Cannon Beach OR 97110

Mr. Adams,

We own the home at 286 West Kenai, adjacent to the Adams/Burg residence at 264 West Kenai. We understand they want to remodel their shed which does not currently conform to zoning, with the rear setback being less than the 15' stated in the code. We support their request to keep the shed's set back where it is and want to stress that moving it away from the property line will damage our neighborhood views and sight lines. Their plan is a much better siting for this property and beneficial to the overall good of our neighborhood.

Regards,

Cheryl A. Miller



May 21, 2021

Jess Adams

CB Commercial Director

Cannon Beach, Oregon 97110

In regards to the property next door to us, owned by James & Kerry Adams: Our address is 237 Kencel St, Tolovana Park, Oregon 97146. It is fine that they reshingle their building out back as long as they don't block any view that we have left. We have owned our house since 1963. Any questions my phone # is: 503-953-2390. Address is: 3900 Kruse Way Place, #444, Lake Oswego, OR. ~~97034~~ 97035.

Sincerely,  
Shirley A. Krongauist

City of Cannon Beach  
Finance Department

MAY 26 2021

Received







# CITY OF CANNON BEACH

City of Cannon Beach  
Finance Department

MAY 26 2021

Received

## SETBACK REDUCTION APPLICATION

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

Applicant Name: James Adams and Kerry Burg  
Email Address: James@5ivecreative.com  
Mailing Address: PO Box 91 Tolovanna Park, OR 97145  
Telephone: 206-953-5134

Property-Owner Name: \_\_\_\_\_  
(if other than applicant)

Mailing Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Property Location: 264 W. Kenai St. Cannon Beach OR 97110  
(street address)

Map No.: 41006BC Tax Lot No.: 6901

### SETBACK REDUCTION REQUEST:

#### 1. Description of the setback reduction that is being sought.

There is an existing garage/shed on the property that is 7' back from the rear property line. The zoning calls for a 15' setback. We would like to renovate the current structure where it is currently located.

#### 2. Description of the proposed building plans pertinent to the setback reduction request.

Reconstruction of a one story garage totaling 345SF. The building is L shaped with the longer dimensions being 20'-9 1/2" east to west and 20'-5 1/2" north to south.

#### 3. Justification of the setback reduction request. Explain how the request meets each of the following criteria for granting a setback reduction.

##### (a) Total building coverage shall not exceed forty percent;

Total building coverage of the site is 36%, well under the allowed 40%.

- (b) Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

With the structure sited as it currently is there are 2 properties to the east of us that have a view corridor through the space between our house and the garage to the ocean. Moving the structure to the south 10' to conform to the zoning setback would eliminate that view corridor and significantly damage their view. So in this case the reduced setback (existing siting) maintains the neighbors views.

- (c) The proposed building location will not interfere with solar access of buildings on adjoining property;

It will not, again this is the existing location of the current garage, we are only adding 46SF to the overall footprint. The additional space added does conform to the zoning setback and does not encroach on the neighbor's view.

- (d) The granting of the setback reduction requires that one or more of the following are achieved by the reduction in setback:

- Tree protection
- The protection of a neighboring property's views of the ocean, mountains or similar natural features,
- The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,
- The provision of solar access,
- Permitting construction on a lot with unusual configuration,
- Rehabilitation of existing buildings where other reasonable alternatives do not exist,
- Protection of a wetland or wetland buffer area, or
- Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback.

The setback reduction protects the neighboring property's ocean view.

- e) Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

The reduced setback will in no way effect adjacent rights-of-way.

- f) The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

This is correct.

g) Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

There will be no impact on privacy of abutting properties.

h) The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings.

Correct, the proposed location is at the end of the properties driveway, access is not impeded.

8. Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structures, and dimensions of proposed development.

**Attach additional sheets as necessary.**  
**Setback Application Fee: \$500.00**

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature: J. DAL Date: 5.25.21

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.

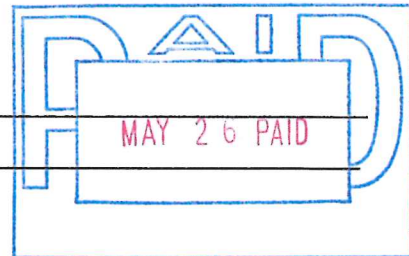
As Property Owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit for the purpose of follow-up inspection, observation, or measurement.

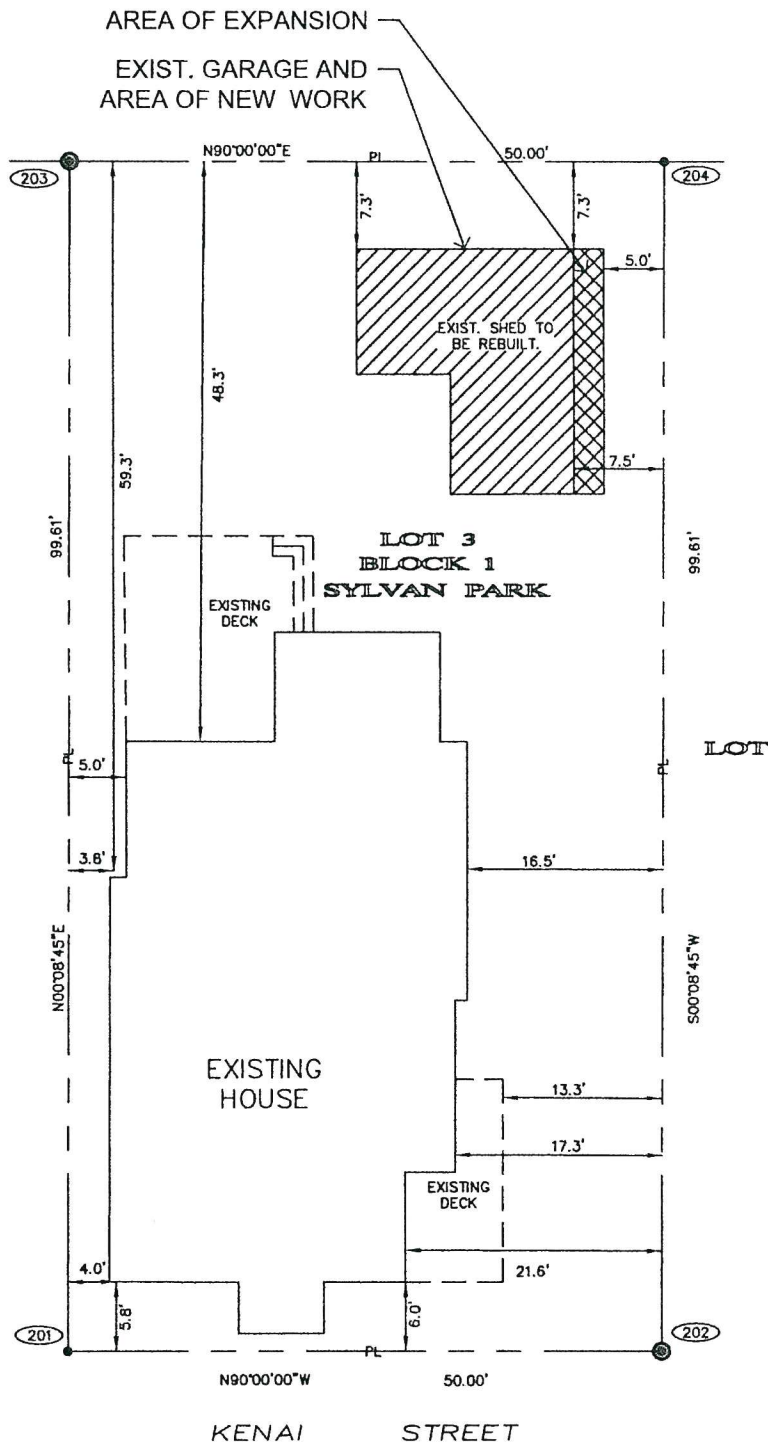
*For Staff Use Only:*

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

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

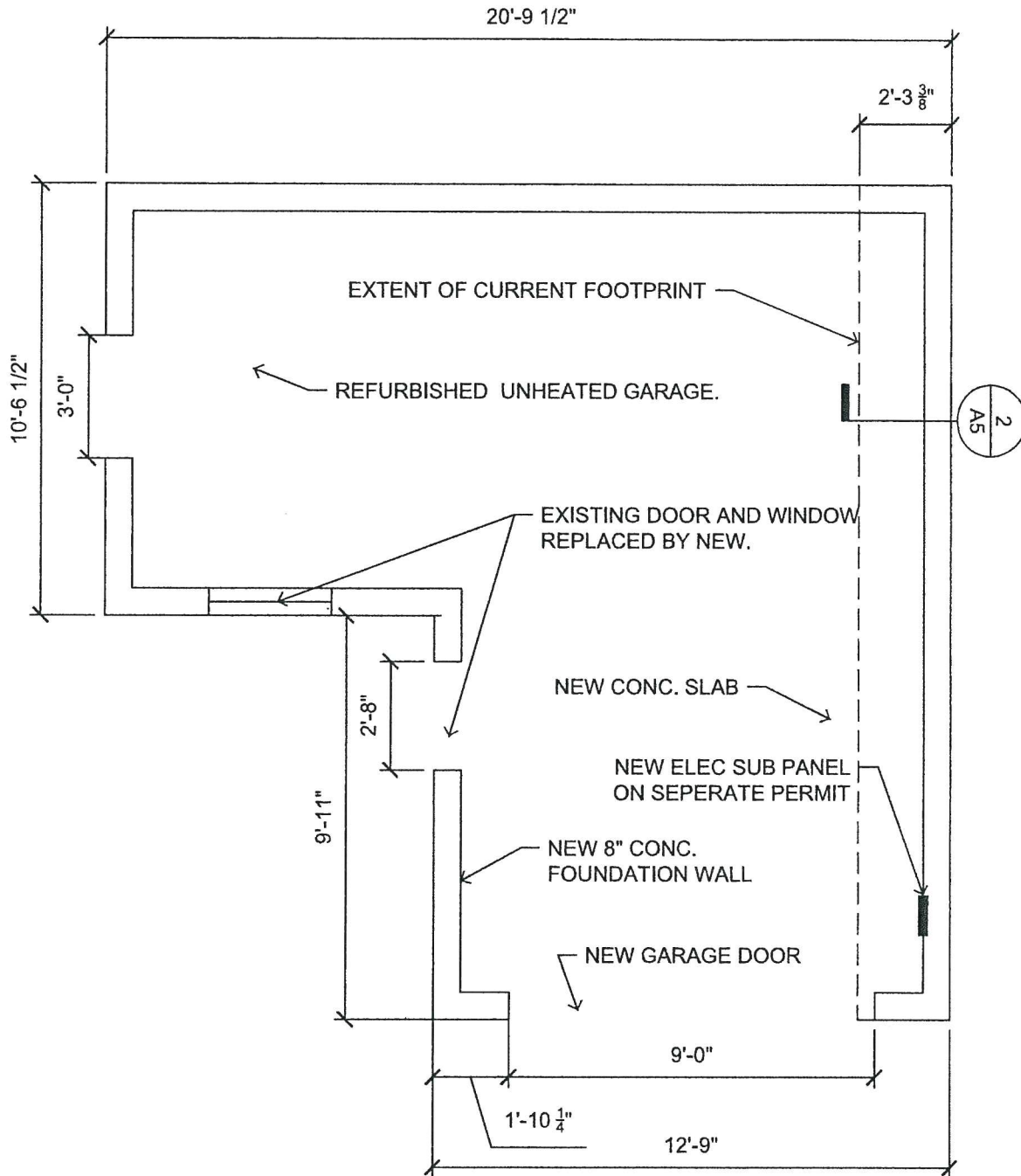
*(Last revised March 2021)*





01 SITE PLAN  
SCALE: 1/16"=1'-0"





**3** **PLAN**  
SCALE: 1/4"=1'-0"



**MOONSHELL GARAGE**  
264W. KENAI ST. CANNON BEACH OR  
**COVER SHEET A-**







# CITY OF CANNON BEACH

June 2, 2021

**SR 21-04**, James Adams & Kerry Burg, application to allow a setback reduction to reduce the rear yard setback from the required 15 feet to 7 feet to rebuild the existing garage/shed, according to chapter 17.12 Residential Moderate Density Zone of the Municipal Code. The property is located at 264 W. Kenai St. (Tax Lot 06901, Map 41006BC) in the Residential Moderate Density (R1) zone. The request will be reviewed against the Municipal Code, Section 17.64.010, Setback Reduction, Provisions established.

Dear Property Owner,

Cannon Beach Zoning Ordinance requires notification to property owners within 100 feet, measured from the exterior boundary, of any property which is the subject of the proposed applications. Your property is located within 100 feet of the above-referenced property or you are being notified as a party of record.

The public hearing on this matter will be held on Thursday, June 24<sup>th</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, June 24, 2021 at 6:00 p.m.** at City Hall, 163 E Gower Street, Cannon Beach, regarding the following:


**ZO 21-01**, Will Rasmussen on behalf of Haystack Rock LLC, for a text amendment regarding notice and procedural requirements for conditional use permitting when extending access and utilization of public rights-of-way located in oceanfront management and wetland overlay areas. The request will be reviewed against the criteria of the Municipal Code, Section 17.86.070.A, Amendments, Criteria.

**SR 21-04**, James Adams & Kerry Burg, application to allow a setback reduction to reduce the rear yard setback from the required 15 feet to 7 feet to rebuild the existing garage/shed, according to chapter 17.12 Residential Moderate Density Zone of the Municipal Code. The property is located at 264 W. Kenai St. (Tax Lot 06901, Map 41006BC) in the Residential Moderate Density (R1) zone. The request will be reviewed against the Municipal Code, Section 17.64.010, Setback Reduction, Provisions established.

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

Correspondence should be mailed to the Cannon Beach Planning Commission, Attn. Community Development, PO Box 368, Cannon Beach, OR 97110 or via email at [planning@ci.cannon-beach.or.us](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: **June 2, 2021**

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





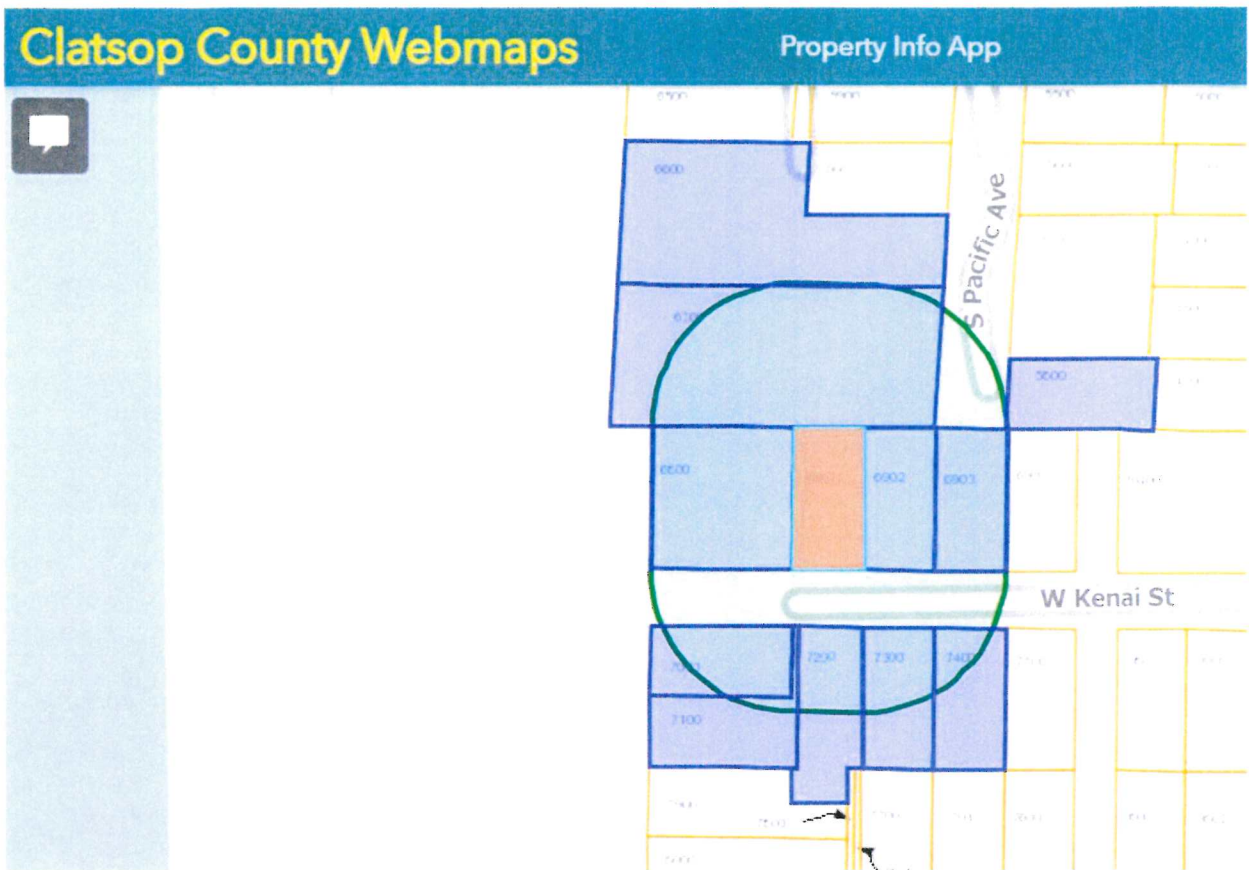
**CONDUCT OF PUBLIC HEARINGS BEFORE  
CANNON BEACH CITY COUNCIL and PLANNING COMMISSION**

- 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.



SR 21-04, 264 W Kenai





TAXLOTKEY	SITUS_ADDR	OWNER_LINE	STREET_ADD	CITY	STATE	ZIP_CODE
41006BC06600	4064 Ocean Ln	Hutchison John P	6022 SW Riverpoint Ln	Portland	OR	97239
41006BC06700	4080 Pacific Ave	Gilbert Michael L	8911 NE 19th St	Clyde Hill	WA	98004
41006BC06800	286 Kenai St	Miller Stanley R/Cheryl A	14547 S Highway 21	Republic	WA	99166
41006BC06901	264 Kenai St	Adams James D	PO Box 91	Tolovana Park	OR	97145
41006BC06902	232 Kenai St	Kronquist Robert Anders	3900 Kruse Way Pl #444	Lake Oswego	OR	97035
41006BC06903	224 Kenai St	Field William E/Mary Ellyn 1/2	10031 SW Balmer Circle	Portland	OR	97219
41006BC07000	287 Kenai St	Wilcox Brett E/Mary D Tr	2727 NW Westover Rd	Portland	OR	97210
41006BC07100	271 Kenai St	Nofield Lisa	PO Box 843	Cannon Beach	OR	97110
41006BC07200	263 Kenai St	Vial Peter M	600 University St Ste #2700	Seattle	WA	98101
41006BC07300	231 Kenai St	Alto Jerry D/Martha J	3310 SW 66th Ave	Portland	OR	97225
41006BC07400	223 Kenai St	Torres Amigo Alvaro	5617 23rd NE	Tacoma	WA	98422
41006BC05800	4079 Pacific Ave	Silver Klapstein Family Trust	1990 SW Mill Street Ter	Portland	OR	97201

JK 21- CH, 264 W Kenai  
Adams & Burg





**City of Cannon Beach  
Building Codes Division  
Tree Permit Applications  
May 2021**

[illegible]

