

## Jeffrey Adams

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**From:** Jay Raskin <jay@jayraskinarchitect.com>  
**Sent:** Monday, July 01, 2019 10:29 AM  
**To:** Jeffrey Adams  
**Subject:** [SPAM] Ocean front setback

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I have been reviewing the basis of my understanding of Cannon Beach's ocean front setback rules since I have done a number of oceanfront houses over the years and found the following:

First, the CB zoning ordinance states:

"Oceanfront Setback. For all lots abutting the oceanshore, the ocean yard shall be determined by the oceanfront setback line."

Second, I checked for the definition of ocean shore, which I found in Oregon Revised statutes.

"Ocean shore" means the [land](#) lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS [390.770 \(Vegetation line described\)](#) or the line of established upland shore vegetation, whichever is farther inland. [ORS 390.605 \(2007\)](#)

Properties fronting the ocean have language that indicates that sit on the ocean shore while this property is only described by lot and plat number of a subdivision.

The oceanfront overlay zone clearly includes both types of properties, mostly in the Presidential streets. Furthermore, the oceanfront setback zoning ordinance only mentions the ocean shore properties when it could have said the setback applied to properties located in the oceanfront management overlay zone.

I hope this is useful in your review. Looking forward to meeting you next Monday.

Jay Raskin, FAIA

Jay Raskin Architect  
2418 SW Troy Street  
Portland, Oregon 97219  
503.440.0436

On Jun 28, 2019, at 6:07 PM, Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)> wrote:

Jay/Kevin what do you think I should do?

----- Forwarded message -----

From: SABRINA PEARSON <[plandevelopment@msn.com](mailto:plandevelopment@msn.com)>

Date: Fri, Jun 28, 2019 at 5:44 PM

Subject: Status Report

To: Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)>

Hi Stan,

Here is an update. Please let me know if you have any questions. I can make time for a phone call today through Monday, July 1.

Jay Raskin stated that he thinks we can challenge the finding provided by the new Cannon Beach City Planner that this is an “oceanfront lot” that is the basis of the City Planner’s evaluation criteria because it is fronted by an (undeveloped) Street.

The Cannon Beach Zoning Ordinance and Comprehensive Plan do not define specifically which lots are “Oceanfront Lots”. Neither does state law. Cities may choose to. State law just requires Cities to identify the lots where specific types of hazard including and not limited to flood hazard and dune hazard reports are required.

I see nothing definitive in the code that would have led the current (or past) City Planner, Planning Commission, or anyone else to definitively define that a lot that is fronted by a street is not an oceanfront lot.

It is the new City Planner’s authority to make that interpretation despite and notwithstanding what has occurred in the past.

The burden of proof is upon the proponent.

However, an attorney may feel it reasonable to adjudicate that the City needs to define specifically which lots are oceanfront within their land use legislation, because it may otherwise open an opportunity for appeal against precedent and discrimination.

Scott Cooter, CKI, stated that the new City Planner stated to him that this is an Oceanfront Lot subject to the Oceanfront Setback survey requirement, but he stated he would support for a variance application if the lot were proven buildable.

Current Option: We can proceed as planned with the Variance option. The City Planner has stated support for this option provided that we limit it to the area that is proven buildable by required qualified experts.

The City Planner has agreed to a buildable area that is “within setbacks”. We now need the qualified experts to support it. Before I can prepare the application to support the variance, I need the reports and plans from the qualified experts to support how far they recommend the build area can be safely extended and how.

I have proposed to coordinate the reports from these professionals for additional fees specified below.

Although I cannot guarantee a time frame, I would like to be retained

so that I can push for a goal of arranging for these items to be completed this summer.

Alternative Option: I can present an alternative proposal I have now evaluated of how to seek evidence that the City has allowed lots that front on a street to not be considered oceanfront lots.

It appears that many of these structures could be considered “pre-existing non-conforming uses” and if they have similar oceanfront projections the impact could be minimal. However, as “pre-existing non-conforming uses”, they would be limited in their redevelopment of the structure by Cannon Beach Zoning Ordinance under 17.82.040 Nonconforming Uses.

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Here is the addendum to my previous proposal that you requested for additional work I need to do to expedite this project:

Coordinate with professionals to prepare building application documentation:

Coordinate the work of professionals required to prepare site development reports and plans consistent with applicable criteria including and not limited to the:

Professional Land Surveyor  
Geotechnical Engineer  
Certified Engineering Geologist  
Civil Engineer  
Architect

And review and approval of this documentation by the City Planner.

Please let me know if you would like a proposal for the specific work required from each of these professionals. As requested, I will provide updates regarding the status of that work.

Cost: \$10,000. \$5,000 due now, \$5,000 due on approval of permit for construction.

This estimate is based on a total investment of 100 hours at \$100 per hour. I think this should be sufficient. I am necessarily particular and I require professionals to specifically address the criteria to avoid denial delays. If my time exceeds this deposit, and you think additional costs are reasonable, we can discuss additional fees. I think this fee should be sufficient.

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Please let me know how you would like me to proceed at your earliest convenience.

Thank you sincerely,  
Sabrina Pearson

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Sabrina Pearson, Plan Development LLC  
(503) 440-3015 / [plandevelopment@msn.com](mailto:plandevelopment@msn.com)

ASFPM Certified Floodplain Manager  
FEMA Certified Hazard Mitigation Plan Writer (Author 17 acknowledged plans)

Eastern Oregon University:  
Bachelor of Science  
Geography and Regional Land Use Planning

Oregon State University:

Masters Degrees:  
Master of Natural Resources Degree (MNR)  
Education Master Degree (EdM)  
Professional Science Master Degree  
Fisheries and Wildlife Administration (PSMFWA)

Graduate Degree Certificates:  
Water Conflict Management and Transformation (WCMT)  
Urban Forestry (UF)

Candidate: PhD Environmental Science  
Natural Resources and Environmental Education

On Jun 26, 2019, at 8:55 PM, Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)> wrote:

That would be great. We will meet at the lot site at 9 AM. Have you  
and Jay learned any more about the Ocean set back?

On Wed, Jun 26, 2019 at 3:14 PM SABRINA PEARSON <[plandevelopment@msn.com](mailto:plandevelopment@msn.com)> wrote:

Received.

I can and would like to be at the 9 am meeting on Monday, July 8, 2019.

Thank you sincerely,

Sabrina Pearson

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Sabrina Pearson, Plan Development LLC  
(503) 440-3015 / [plandevelopment@msn.com](mailto:plandevelopment@msn.com)

ASFPM Certified Floodplain Manager

FEMA Certified Hazard Mitigation Plan Writer (Author 17 acknowledged plans)

Eastern Oregon University:  
Bachelor of Science  
Geography and Regional Land Use Planning

Oregon State University:

Masters Degrees:  
Master of Natural Resources Degree (MNR)  
Education Master Degree (EdM)  
Professional Science Master Degree  
Fisheries and Wildlife Administration (PSMFWA)

Graduate Degree Certificates:  
Water Conflict Management and Transformation (WCMT)  
Urban Forestry (UF)

Candidate: PhD Environmental Science  
Natural Resources and Environmental Education

On Jun 24, 2019, at 2:01 PM, Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)> wrote:

See above.

On Wed, Jun 19, 2019 at 12:32 PM Don Rondema  
<[don@geotechsolutionsinc.com](mailto:don@geotechsolutionsinc.com)> wrote:

can you send Sabrina's email?

Sent from my cell 503.869.8679  
Don Rondema

On Jun 19, 2019, at 12:29 PM, Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)> wrote:

Yes. Please provide copys to Jay, Rich, and Sabrena.

On Wed, Jun 19, 2019 at 12:15 PM Don Rondema  
<[don@geotechsolutionsinc.com](mailto:don@geotechsolutionsinc.com)> wrote:

Stan,

I have worked a lot with Rich and will call him. I think I should  
issue my letter before the meeting so you have time to go over it and  
ask questions and can copy Rich and your architect (that is Jay  
Raskin, correct?) if you would like- just let me know. Having Rich on

site at our meeting would also be helpful.

Don Rondema, MS PE GE  
Principal

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-----Original Message-----

From: Stan Roberts [<mailto:stan.milliman@gmail.com>]  
Sent: Tuesday, June 18, 2019 9:41 PM  
To: Don Rondema  
Subject: Re: Cannon beach meeting

Sounds good. See you then. Sometime I would like you to talk to my builder. Rich Elstrom 503-738-0274.

On Tue, Jun 18, 2019 at 9:26 PM Don Rondema <[don@geotechsolutionsinc.com](mailto:don@geotechsolutionsinc.com)> wrote:

great. how about 9am at the lot?

Sent from my cell 503.869.8679  
Don Rondema

On Jun 18, 2019, at 9:18 PM, Stan Roberts <[stan.milliman@gmail.com](mailto:stan.milliman@gmail.com)> wrote:

Yes let plan on Monday the 8th. What time? I assume it would be at the lot.

On Tue, Jun 18, 2019 at 3:25 PM Don Rondema <[don@geotechsolutionsinc.com](mailto:don@geotechsolutionsinc.com)> wrote:

Stan,

Certainly, I could meet Monday morning the 8th?

Don Rondema, MS PE GE  
Principal

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-----Original Message-----

From: Stan Roberts [mailto:stan.milliman@gmail.com]  
Sent: Tuesday, June 18, 2019 2:43 PM  
To: don@geotechsolutionsinc.com  
Subject: Cannon beach meeting

You mentioned that you are not available to meet until July 3rd. Do you have any availability the week of July 8th?