

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, May 25, 2023

Present: Chair Clay Newton and Commissioners Anna Moritz, Mike Bates, Les Sinclair, Erik Ostrander, Dorian Farrow, and Aaron Matusick via Zoom

Excused: None

Staff: Land Use Attorney Bill Kabeiseman, City Manager Bruce St. Denis, City Planner Robert St. Clair, and Community Development Administrative Assistant Emily Bare

CALL TO ORDER

Chair Newton called the meeting to order at 6:02 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Commissioner Moritz moved to approve the agenda as submitted; Commissioner Sinclair seconded the motion.

Vote: Sinclair, Matusick, Bates, Moritz, Bennett, Ostrander, and Chair Newton voted AYE; the motion passed 7:0.

(2) Consideration of the Minutes for the Planning Commission Meeting of March 23, 2023

Motion: Commissioner Ostrander moved to approve the minutes; Commissioner Moritz seconded the motion.

Vote: Sinclair, Bates, Moritz, Matusick, Farrow, Ostrander, and Chair Newton voted AYE; the motion passed 7:0.

(3) Public Hearing and Consideration of AA#23-04, Janet Stastny administrative appeal of the City's approval of a tree removal permit.

AA #23-04 Janet Stastny administrative appeal of the City's approval of a tree removal permit in conjunction with the construction of a new single-family dwelling at 743 N. Ash St (Tax Lot #05602, Map 51019AA) in a Residential Lower Density (RL) Zone. The appeal will be reviewed pursuant to Municipal Code 17.88.180, Review Consisting of Additional Evidence or De Novo Review and Applicable Sections of the Zoning Ordinance.

Commissioner Moritz excused herself from the deliberation/hearing.

Site Visits were made by Commissioners Bates, Farrow, Ostrander, and Chair Newton.

Robert St. Clair read the staff report.

Additional information was received and distributed to the commissioners, parties of interest as well as posted to the City's website on or around 2pm.

Public Testimony

Applicant:

Dean Alterman
805 SW Broadway Suite 1580
Portland, OR 97205

Mr. Alterman discussed his viewpoint that the developer obtained permission to construct the structure without applying for or obtaining permission to remove the Sitka spruce. As stated in the Attorney's letter, despite how the developer has framed his application to remove the tree as being necessary to build the house, the tree is not in the way of the house – if it were, the developer would have applied to remove the tree at the same time that he applied for a building permit, instead of beginning to build the house before applying to remove the tree.

Mr. Alterman also noted that the Sitka spruce contributes to the stability of the hillside, and quoted Joe Balden, "the tree is significant in that the tree root system presents a major component to slope stability on the east side of the property." Mr. Gerhardt wrote that "the tree is hugely beneficial in anchoring the slope."

Mr. Alterman spoke to the section of Cannon Beach Municipal Code that protects trees from unnecessary removal and restricts pruning of large trees, which the developer did.

Commissioner Bates asked Alterman if he was satisfied that there wasn't any encroachment upon his client's property. He said he was not necessarily satisfied, yet he had not taken a measuring tape to check the measurements.

Donald Stastny
2309 SW 1st Ave
Portland, OR 97201

Mr. Stastny worked as a licensed architect for many years and has been on many worksites, he expressed his concerns with this jobsite. He spoke to the ravine behind his and another neighbor's property, as well as the old rock quarry that is part of that property.

Mr. Stastny discussed the records submitted for the building permit as well as the paperwork for the variance. The Geotech report that was completed was to determine if two houses could be built, not what the story of the land on that lot was about.

Fire suppression issues as well as past fires in the area were spoken to with great concern with the proximity of the houses in that area of town.

Mr. Statsny discussed the retaining wall that was put in which caused encroachment onto their land and destroyed a sprinkler system. He believes that the structure of his house has been compromised.

Statsny believes that the tree removal permit should have been completed at the beginning of the project.

Robert Necker
PO Box 1021
Cannon Beach, OR 97110

Mr. Necker spoke about the tree being damaged before it can even be killed. Where do we go from here? He believes that the person building this house is ruining this community.

Jan Siebert-Warhmund
PO Box 778
Cannon Beach

Mrs. Siebert-Warhmund asked if we could find a way to save the significant tree please do so.

Opponent:

Jamie Lerma
PO BOX 825
Cannon Beach, OR 97110

Mr. Lerma went through the packet of information provided to the committee this afternoon. Copies of the building permit, Geotech report, as well as photographs of the tree. Lerma walked the committee through the pictures of the jobsite, he has been in contact with both Geotech, structural and earth engineers.

The timeline was discussed and the communication between city staff and applicant was discussed. The hope was to save the tree, if possible.

Lerma explained that they had to excavate the north end to see what the slope on the south end would be. This made it necessary to complete a retaining wall. The crew was using heavy equipment when it became necessary to prune some of the limbs of the tree.

Commissioner Farrow asked if the architect could have designed a different house to save the tree.

Commissioner Bates asked what the product was used for back fill.

Chair Newton asked what was the thinking process and were the plans modified? The answer was no, so why not get a tree removal permit at the beginning of the building permit process. The builder explained that the original layout of the land was very different before it was cleared out. There were different spoils

that were placed there. The builder explained that they need to remove the tree to set the appropriate footing to get a safe foundation.

Commissioner Bates asked if the Geotech report was based on saving the tree and stabilizing the land.

Commissioner Sinclair asked if the tree is critical for the stabilization of the slope.

Commissioner Bates wants a new Geotech if the slope has changed.

Jo Baldwin
760 Astor St
Astoria, OR 97103

Mr. Baldwin has been a consultant with the city for many years. When Mr. Lerma first came to look at the tree, he knew that the tree couldn't be saved. He sent a memo to the architect Mr. Cerelli and to Mr. Lerma hoping for a plan. But with the size of the house and the slope of the land the tree could not be saved. They didn't know what the cutouts of the land were going to be in the beginning of the project.

Commissioner Bates questioned the arborist if other foundation systems could have been used.

Ostrander asked if the tree in question can survive the damage that has already been done.

Sinclair asked if the arborist could speculate how far the building would need to move to save the tree. Mr. Baldwin speculated 15 feet further west and north. Sinclair asked if the tree were to be removed how would the slope be affected? The roots on the tree are essential to slope retention.

Ostrander asked if Lerma had stopped work on the property near the tree.

Staff response: No

Public Record Closed 7:33 pm.

Bates agreed that Lerma is in a bad position. He is concerned that everything in the packet says that the tree is holding up the slope. He feels that we need a Geotech report to make a determination regarding the slope. Bates believes that the commission needs to move to continuation so they can get the information they need.

Sinclair believes that the commission needs to do what they need to save the tree.

Farrow believes that the architect who designed the home on that property had to have known that the tree needed to be removed.

Ostrander believes that with the decks there should have made it obvious that the tree needs to be removed.

Bates agreed that Lerma has few choices. Remove the tree and see what happens. Build around the tree but that may cause dangerous conditions.

Farrow believes that there really is no way to preserve the tree. Newton said that we can't ignore it if the tree is an anchor to the slope.

Sinclair believes that in normal business the tree removal permit should have been submitted in the beginning. The real concern is how to approach the slope concern.

Farrow asked what the outcome would have been if the TRP was presented at the beginning of this process. St. Clair said it would have been approved due to code.

Motion: Commissioner Bates moved to continue this item and requested a geotechnical report with oral and written testimony limited to the geotechnical report and the health of the tree on June 22, 2023, at 6pm. Farrow seconded the motion.

Vote: Sinclair, Matusick, Ostrander, Bates, Farrow and Chair Newton voted AYE; the motion passed 6:0.

(4) **Public Hearing and Continuation of SR#23-01, Mike Morgan request on behalf of Jeff and Miriam Taylor for a Setback Reduction for a porch addition to allow emergency access at 1956 S. Hemlock St.**

SR 23-01, Mike Morgan, on behalf of Jeff and Miriam Taylor, application to allow a setback reduction to reduce the back yard setback from the required 15'0" build a porch to be used as an emergency access. The property is located at 1956 S. Hemlock. (Tax Lot 04300, Map 51030DD), and in a Residential Low Density (RL) Zone. The request will be reviewed against the Municipal Code, section 17.64.010, Setback Reduction, provisions established.

Site visits by Sinclair, Farrow, Bates, Newton, Moritz, and Ostrander.

Proponents:

Mike Morgan
PO Box 132
Cannon Beach, OR 97110

The setback reduction is at Six and a half feet. The old footprint will be used to save three trees, the arborist report does not suggest moving any further down the slope.

Bates clarified questions regarding the "bridge" of the retaining wall. Mr. Morgan explained that the structure will not go out any further than the retaining wall/steps attached to the retaining wall.

Sinclair requested that there is reassurance that there is not going to be parking on Hemlock.

Chair Newton questioned a statement in the Geotech report regarding the retaining wall.

Jeff and Miriam Taylor
2005 W Huntsville St
Broken Arrow, OK 74011

If you have questions regarding the stability of the wall, please offer that as a condition and they would be happy to do so.

Opponents:
None

Public Comment:
None

No staff response.

Public Record Was Closed at 8:22pm.

Farrow complimented the homeowner's commitment to get the information requested in a timely manner.

Moritz requested a motion that the area not be a parking area and a condition of approval.

Motion: Moritz moved to approve the setback reduction with condition that there will be a no parking agreement on west side of hemlock and upon approval of the building permit that a Geotech be completed on the retaining wall.

Vote: Sinclair, Matusick, Ostrander, Bates, Moritz, Farrow and Chair Newton voted AYE; the motion passed 7:0.

(5) **Public Hearing and Consideration of SR 23-05 and VAC 23-01, CIDA request on behalf of the City of Cannon Beach for a Setback Reduction and Street Vacation in conjunction with the Cannon Beach Elementary School rejuvenation project at 268 Beaver Ave.**

SR#23-05 and VAC 23-01 CIDA request on behalf of the City of Cannon Beach for a Setback Reduction and Street Vacation for the purpose of reducing the required setback in order to construct a covered entrance canopy and provide space for required off-street parking. The property is located at 268 Beaver Ave. (Tax Lots 4000, 4100, 4101, 4200, and 4301, Map 51020CB) in an Institutional (IN) zone. The request will be reviewed under Municipal Code section 17.64.010, Setback Reduction, and section 12.32, Street and Alley Vacation, provisions established.

Exparte by Ostrander regarding emergency exit with the Fire Chief

Site Visits Sinclair, and Farrow

St. Clair read the staff Report.

Dustin from CIDA

Discussion regarding the reason that they pulled the items from last month, they had been in discussion with Mr. Mahoney but were unable to come to a common place.

After visiting the site with Karen LaBonte and Trevor Mount a new proposal has been brought to the table. Because it is a preexisting two-way street, CIDA is proposing to clear the fifty-foot right-of-way to thirty feet. This is not a final proposal, but they will be meeting with the City Council and Fire Chief in the next several weeks. The original proposal added ninety-degree parking, the new proposal would add 180-degree parking and allow access for Mr. Mahoney to access the side road to his property.

The reason for the vacation request is to increase the sidewalk to 15 feet and a ten-foot loading zone.

Farrow asked if the sidewalk is fifteen feet wide and could homeless camp on the sidewalk. There was a question regarding if this was a building entrance or a city sidewalk. St. Denis explained the city ordinance and how this space could be affected by homelessness.

Sinclair asked how this plan will affect the other businesses and homes on the south side of that property. There may be spaces for three parallel parking spaces.

Public Comment:

Jeffrey Kleinman
1207 SW 6th Ave
Portland, OR

Sequoia Investments LLC. Mr. Maloney has told his attorney that the design works and he does support the project and what was sent May 18, 2023, in the Staff Report Addendum. Mr. Maloney access' is based on a neighbor's easement for the.

The Public Hearing closed at 9:25 pm.

Committee discussion

Motion: Commissioner Bates moved to approve the setback reduction and recommended approval of the vacation to the City Council. Farrow seconded the motion.

Vote: Commissioners Sinclair, Ostrander, Bates, Moritz, Matusick, Farrow, and Moritz all voted AYE; Chair Newton voted no. The motion passed 6:1.

WORK SESSION ITEMS

(6) None

INFORMATIONAL ITEMS

(8) Tree Report

St. Clair went over the March/April tree numbers utilizing the Public Notice Page of the City's website.

(9) Ongoing Planning Items

St. Dennis spoke to the ongoing recruitment for the Community Development Director

(10) Good of The Order

Conversation on leading discussions and bringing a voice to issues that are important to our community.
How the committee can be involved in driving the communication of hot topics in our community.

(11) Adjournment

ADJOURNMENT

The meeting adjourned at 9:45 pm.

Emily Bare
Community Development
Administrative Assistant