

**Minutes of the  
CANNON BEACH PLANNING COMMISSION**  
Thursday, October 27, 2022

Present: Chair Clay Newton, Commissioners Barb Knop, and Les Sinclair in person  
Commissioners Mike Bates, Charles Bennett, Aaron Matusick, and Anna Moritz via Zoom

Excused:

Staff: Director of Community Development Jeff Adams, Land Use Attorney Bill Kabeiseman, City Planner Robert St. Clair, City Manager Bruce St. Dennis, and Recorder Jennifer Barrett

CALL TO ORDER

Chair Newton called the meeting to order at 6:03 p.m.

ACTION ITEMS

**(1) Approval of Agenda**

Bates said I would like to bring stormwater up to be a regular agenda item. Newton asked what's the difference? Bates replied if you want to make a decision you can't on a work session item. Adams said if you want to take action you can move it to a regular meeting portion.

Motion: Knop moved to approve the agenda as amended; Mortiz seconded the motion.

Vote: Sinclair, Matusick, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

Mike asked to move the letter up first as it wont take long, clay said there are people who would like to speak and are expecting it to be later in the meeting.

**(2) Consideration of the Minutes for the Planning Commission Meeting of September 22, 2022**

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

Vote: Sinclair, Matusick, Knop, Bates, Moritz, Bennett and Chair Newton voted AYE; the motion passed

**(3) Continuation of CD# 22-01 & CU# 22-03, David Vonada request, on behalf of Davidspruce LLC, for a seven-lot Conditional Use Permit Cluster Development Subdivision in the Wetland Overlay Zone.**

David Vonada, on behalf of David Pietka, request for a Conditional Use Permit to allow a cluster development consisting of five single-family dwellings and a fourplex apartment. The property is located on the southwest corner of 1st and Spruce St. (Tax Lot 04402, Map 51030AA) in a Limited Commercial (C1) Zone. The request will be reviewed under Cannon Beach Municipal Code, Titles 16 Subdivisions and 17 Zoning, including Sections 16.04.130 Subdivision-Applicable Standards, 16.04.400 Variance-Cluster Development, 17.22.030 Conditional Uses Permitted, and 17.43.040-050 Conditional Uses and Activities Permitted in Wetland and Wetland Buffer Areas, Standards.

Chair Newton asked for the Staff Report.

Adams explained the procedure used for this item and read the staff report.

Moritz asked about the deed restrictions on the ADU, Adams said he understood it was not part of it, but we can check with the applicant.

Bennett said we are putting residential units in a commercial area. Would we ever put commercial in residential? Is this common? Adams replied in Cannon Beach we have a few, and it's a conditional use and that's what they are asking for in the commercial zone. Its allowed as a conditional use in our code.

Sinclair asked did you locate what could be the remainder of the wetland delineation report, Adams replied I did not.

Bates said if we go to zoning request for C1 there is a density restriction of 50% of floor area, how do we deal with it? Adams replied that's only for multifamily, giving an overview. Bates asked wouldn't it be better to rezone the property, Adams replied its allowed in the code and the 50% is for used mix. Kabeiseman added this is not a residential in conjunction with the commercial, it's just residential.

Sinclair added I thought Charles comments were about putting residential in commercial, but other half of the block has residential as well.

Newton asked what did we say regarding additional comments, is there time limits, Adams replied I don't recall a time limit.

Persons who testify shall first receive recognition from the Chair, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Chair Newton asked if the applicant wished to make a presentation.

David Vonada from Tolovana Architects

I appreciate the time from the Planning Commission to consider the project of affordable housing in Cannon Beach, particularly in downtown. This plan came about from a meeting with Pietka and with residents in Ecola Square, which is mixed use. Due to the topography, they will be the most impacted by project. Vonada gave an history of Ecola Square starting with Mike Clark, noting Clark chose not to develop the property, but considered to as a commercial property. We have enough commercial property development in downtown Cannon Beach. I think developing this as residential use has some major advantages. Since I presented last time have revised the northerly portion of housing development to affordable housing, the other 4 and ADU would not be part of the affordable housing but would be kept small and efficient for the purchaser. The proposal would be to include the 6 plex in the affordable housing

program and David Pietka is willing to put that forward and negotiate with council as well as a 30- year registration on rent. Pietka owns an adjacent parking space in the area which would give space and based on criteria that could be accepted by you. Vonada read a couple sections from the comp plan explaining how they lend support to the development. We have updated the submittals, there were requests last time for additional information. Pietka has gone to the extent of providing Geotech, arborist and wetland delineation. Vonada gave an overview of the site plan and explained how the project will be built per the submitted plans even though there is not a written guarantee but the process essentially guarantees it. Vonada noted we do not have any objections to Adam's conditions of approval.

Bates said you said something about wetland restrictions in another document, Vonada replied it's included in the wetland delineation report which does require mandatory protections.

Mortiz said the 5 foot buffer around wetland it says a berm will it be built or left as is, Vonada replied it will be left as is. A comment was made that a berm would be desirable. All stormwater beyond the five foot buffer would be channeled to the storm sewer system. We hired Adam Daily to do the civil engineering for the project and as part of review with city public works we will be obligated to connect to city system.

Bates said that day the photos were taken there was a lot of standing water. How are you going to deal with it, Vonada replied the property will be graded to drain to the storm sewer. I would venture to guess a lot of Cannon Beach in the winter would have standing water. The stormwater system will be fully engineered to accommodate the water standing on the site. Bates said wouldn't it be better to the put the stormwater back into the wetland. Vonada replied that is subject to approval from a wetland consultant. I rely upon consultants like that for recommendations on that type of things. If that is a recommendation, we would consider it. This will be only the second affordable housing project in Cannon Beach. The city's policy has been in effect quite a while and I heard the fund is somewhere around \$200,000 at this point. I am hoping we can qualify this project for the affordable housing fund. I am working with Pietka, I've been architect for 40 years in Cannon Beach the last 20, I've worked for a lot of developers in my time and Pietka strikes me as someone who has the city in mind with this project. This property could be developed as one big commercial development, but he really has this vision of providing a more compatible use.

Newton asked is it one tax lot, Adams replied yes. Newton said how do you see it being sold off, Vonada replied each single-family dwelling would be on its own lot which is where the cluster development comes in. Newton asked what is the thinking of common areas, Vonada replied I believe Adams is asking for an HOA, a discussion ensued. A discussion ensued regarding options of site being used as apartments only. Vonada added If going that route on 18 apartments you are looking at 23 parking spaces, so a variance of two vs a variance of a dozen would be something to look at.

Bates asked how do we make sure HOA is in place until people start residing, Adams replied we won't sign off on the plat before it is set.

Chair Newton called for proponents of the request.  
There were none.

Chair Newton called for opponents of the request.  
Lolly Champion PO Box 614, Cannon Beach.

Champion read a prepared letter. A copy is attached to the minutes.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach

I would just like to say from my heart I don't trust this situation that you're being presented with and just from listening tonight and the bit that I've been studying, I'm very concerned about the whole project. I've tried to write with my husband a number of letters. I hope you've gotten those letters and I just think this needs to be very carefully looked at. I know you all will. I'm very concerned about the drainage brought up tonight. We need to really make sure that the wetlands are nourished, not treated like there's some sort of unimportant feature in this environment. So, I ask you all to please just do your best and I know you will.

Lisa Kerr

I read through the agreement, the deed restriction agreement, Community Housing Development agreement, and I'd like to know what is there to stop the developer from terminating the agreement after five years because they can according to the way the agreement is written. Either side can before the termination of the 30-year period. What's to stop them after five years from terminating it and paying their prorated balance of all the wave fees and system development charges because it pencils out as more profitable to rent the units as short-term rentals and pay off the fees. So, I'm really concerned about that. I do not think the community housing development agreement is sufficient to protect the city at all. The other thing I'm wondering about is you know those there's a on the west side of the property, there's a commercial development with some Galleries and stores. I assume that the parking behind that building not this not the parking underneath the Condominiums but the parking that's being incorporated into this development was parking was the part of the required parking for that commercial development and it is now being incorporated into this new development to satisfy the requirement for the dwellings. So where will the required parking now be for the commercial development? What happens to it? It's no longer there and I'm wondering if anyone can answer the question. How that's going to work?

Staff response:

Adams said we would definitely have Kabeiseman review if someone was trying to default. Kabeiseman said I have focused on the land use aspects, as I understand the city attorney handled the other agreement. We can talk to her and make sure she's aware of these concerns and it's up to Council to determine what the restrictions are. In response to Newton's question does the Planning Commission have a voice, Kabeiseman replied I am not sure. Adams added we never would allow a short-term rental since it's in a commercial zone. Adams read through the conditions of approval.

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

Vonda said I would like to address Lisa's question regarding those 13 spaces. I was actually the architect for the Ecola Square conversion when Mike Clark bought Ecola Square and converted it to the second-floor condominiums. I can attest to the fact that those 13 spaces were always on the easterly parcel. In fact if you look closely there's actually a property line down the center line of the parking lot. There's an agreement between Dave Pietka and the Ecola Square Condominiums for a cross access from one-side of the parking lot to the other. That's why those parking spaces may have been used up to this point by some of the Ecola Square folks. But it's only because the easterly lot had not been developed.

Clay closed the public hearing and moved to consolidation.

Mickey I want to love this project because it does look like a fantastic idea to have affordable housing and am willing to swallow the piece that involves more expensive cottages for lack of a better word in the sense that it would mean that we might get some affordable housing. But I agree with all the comments that there's a trust issue here and I think we should ask ourselves very carefully is there anything that we can recommend that we feel would help strengthen the chance that this will not simply become an abandoned affordable housing project. I think we've all seen it happen too many times. It's a question we've had voiced by a few people tonight and we're voicing. As I look through the penalty in what was structured and I know you've said that necessarily what would use

Newton said the penalty for fees I am guessing is not much and the math would be easy in about 5 years. We would have to figure out a mechanism to make it financially unattractive. For me, I am pulling for this project and am conflicted too. I don't want to minimize the importance of wetlands, but we have conflicting values the city is trying to balance. I am willing to look openly and think about what happened in the past with different projects, noting examples. It would be nice to see one ownership on that site with some configuration of that could work. If had a model to incentive developers to not built a million-dollar house. Newton noted how taxes are used to entice developers. Its not what is on the table, but I wish it were. I am willing to work towards putting it on the table. I don't have any reason to believe Pietka has any of those intentions.

Bates said I hate to sacrifice wetland but we are getting a lot for it. What variances are we offering from this approval. We have to go about it the right way and not sure apartments and cluster development in a commercial zone is the right way to do it. Adams replied the ordinance does not require anything like a density as no density with commercial. Do not require all of the traditional setback issues because it's commercial development. We do not have hard requirements like that. We are not held to the often-dimensional requirements. The 50% is for residential in combination with commercial which is not being done, a discussion ensued. Kabeiseman noted I understand what Bates says. The way you address it is by changing the current code. The code you have allows this under what they are applying for. If you want only commercial use in the commercial zone you will need to change the code, a discussion ensued. Kabeiseman added the code allows with conditional use which is what they applied for, a discussion ensued.

Knop said I agree with most of what you said. There has to be a balance and we need affordable workforce housing and if this is a way to do it we need to move forward.

Sinclair I am inclined to want the house as well. I hear Bates' concern with the cluster development and past issues. A lot of it could have been avoided if an HOA was in place like it was supposed to be. There wasn't an entity to take care of issues that came up. Adams said we'd require an HOA before signing off. Is that a solution to that piece of the problem? Adams added I was not here when that was signed but I have learned as well. Newton added a cleaner way is to rezone the property.

Bennett said the only reason I am considering this is the affordable housing. It bothers me if after a few years when it become economically feasible it could go away. I have a bad feeling if that is a possibility. Adams replied it is 30-year term. Bennett added what I hear is that when it becomes economically feasible the developer can pay the fees and it's not longer affordable. Adams replied no, we would have our attorney put in still penalties with anything that doesn't hit the 30 year. Moritz added we haven't seen it yet and that's where I am uncomfortable. If I can't see it, I don't know what that means. Also I feel

uncomfortable that we could grant these, and the affordable housing can go away by the time it gets to building permit. We don't have enough assurance.

Matusick said I have the same thoughts of everyone in the room. I would like to see the entire development why not have it all affordable, go back to 18 units. It does not financially make sense. Without real incentives there is no way I would sign off without the penalties being stiff. Newton asked Matusick having looked at this from a developer's perspective, if property taxes were reduced, would that have made financial sense as a developer, Matusick replied no, not without the parking being waived, a discussion ensued. Newton asked if you had in front of you the regulatory agreement and a draft of an HOA agreement would you feel different, Matusick replied I would. I would feel a little different about it. Newton said but not about the financial feasibility, Matusick replied correct unless philanthropy is involved and that is not a part of the proposal.

Sinclair said if you attach conditions, the implication is it won't go through unless conditions are met. Some of the distrust is once you set conditions how do you know it happens. We could make a decision tonight with conditions attached, but we would be uncomfortable knowing if those conditions were met. Newton added I feel I heard that from a few members, a discussion ensued.

Moritz said let's remember Vonada gave us the original drawings when the thought was 50/50 and there were 8 apartments in that original project. I would love to see affordable, but if this may not move forward as an affordable project that stays affordable, he could go back to the original plan and yes those would not be rent limited, and since it is in a commercial zone, they can't be short term rentals anyway.

Motion: Bates moved to approve on basis development would be 50% commercial and 50% residential apartment; Bennett seconded the motion.

Moritz confirmed so the motion is to deny the conditional use. Newton said we have an application in front of us, has a proposal we've been asked to say yes or no to. We need to start with that, and if there is some version of what they proposed we need to make that clear. Kabeiseman added there is a motion on the table. The commission can vote or it can be withdrawn. As the chair said you are reviewing as specific application and the idea we are going to approve something that is entire different is problematic.

Bates withdrew his motion

Motion: Bates moved to deny proposal; Bennett seconded the motion.

Vote: Bennett, Bates and Newton voted AYE, Moritz, Sinclair, Knop and Matusick voted NAY; the vote was 3 to 4 and the motion failed.

Moritz said the main issue we haven't fully considered is there some way that we can write a condition that makes this enforceable enough to move forward with an affordable project. I don't feel we have explored enough options to make this work, a discussion ensued.

Sinclair noted it seems to me the key issue is some feeling of assurance that it can't be reversed in a shorter period of time. Adams asked would it satisfy you to continue the hearing and bring back a stricter penalty language, Moritz replied yes. I would be happy to have a docuemnt in front of me that made sure this

remains affordable. Knop that is a good approach. Newton added it doesn't address HOA. Moritz asked can you bring forward an sample HOA agreement, Adams replied yes we can work with Ashley Driscoll.

Knop asked how many HOA's do we have, Adams replied I am not sure a discussion ensued.

Newton asked how we were doing timing wise, Adams replied we are up to January 3<sup>rd</sup>

Motion: Mortiz moved to continue this matter until the November 22nd meeting so we can review an enhanced deed restriction with greater penalties as well as a sample HOA agreement; Knop seconded.

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

Take a 10-minute break at 7:37 pm. Reconvened 7:41 pm

**(4) Public Hearing and Consideration of ZO 22-01, Will Rasmussen, on behalf of Haystack Rock LLC, requesting a text amendment of the Cannon Beach Municipal Code regarding notice requirements for applications and decisions.**

**ZO 22-01**, Will Rasmussen, on behalf of Haystack Rock LLC, requesting a text amendment of the Cannon Beach Municipal Code, Title 17 Zoning, regarding notice and procedural requirements for citizens to receive electronic notifications of application processed by the Community Development Department, administrative decisions, and expanded public notice for permits concerning hazard areas, environmentally sensitive lands, and new roads. The request will be reviewed against the criteria of Municipal Code, Section 17.86, Amendment Criteria.

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

Adams summarized his staff report and read the examples Rasmussen provided. These examples are for specific permits, not a blanket request for anything submitted. Adams noted that Roberts submitted their application the day before the new zoning code went into effect, therefore notification was not required. The proof Rasmussen provided is not the same things he is requesting. We do approximately 200 permits a year. We have made the effort by going to an electronic permitting system. You can check every day to see what's going on on that property. We have made the effort to be transparent. The claims made that it will not cost staff time and resources, they are just claims. I know my staff and resources, to just come in and start claiming these things where's any proof of that? I don't see any other documentation entered into the record saying that other departments do this, you know what it is costing them, you know they can handle it easily and I think Moritz asked for you to find one proof of another system that's doing this electronically and maybe that's a way to do it I haven't seen I haven't seen any of that.

Will Rasmussen on behalf of Haystack Rock LLC,

I 100% disagree with the characterization with the code revisions I provided. The first one he said noted that the local jurisdiction will give notice for all decisions anybody who requested it for quasi-judicial land use decisions that might sound like some fancy big thing but that is exactly what the Roberts home approval was. That Adams approved without the Planning Commission or the public getting input. Just asking on behalf of a local long time homeowner asking for notice. I ask for copies of decisions all the time and it's the first time I ever remember uh planning director telling me now I'll only give you a copy if it's required by law. Finally getting hearing. I appreciate the public process. This is just a code requirement. I am sure you looked at criteria applicable and noticed it doesn't have to do if a spreadsheet takes time. The code criteria actually don't apply to the comprehensive plan correctly, giving an overview. I know staff is trying its best here. This proposal meets the criteria to a T. The citizens in the community expect to be involved. This would be a simple spreadsheet. I read all the minutes every month. I guess you are talking about 10 properties a month requesting to be notified. The practical effect of not being notified is what happened with the Roberts, giving an overview of the Roberts case. These meetings cost time and money and these are a burden on the city. If you don't think that decision will end up back here, I'd bet you a beer on it. I am not making up that this would save time resources and money. It forces the interested citizens to be an adverse position with the city. When the city says I won't give you information I feel I have to submit a public records request. This is the only city I do this with. I don't think this fits the character of Cannon Beach. I don't think the character is to tell someone no, I am not going to tell you about that decision.

Moritz said we had this discussion at the work session. Still a little surprised you feel you can't get information now as now they are posted on Acela. Have you had a chance to log onto the system to see if that is what you are looking for, Rasmussen replied I logged on and poked around, not sure how complete it is and how often its updated with decisions. And for the right-of-way, there are a lot of things going on driving and impacting development. This should be in code. I can only count on getting notice if it's in the code, if it's not in the law and we don't do it, there might be no recourse to pulling it back to the planning commission. Moritz replied if I summarize what you said, you don't trust how quickly information is ending up on Acela and you feel you couldn't find rights-of-way on Acela. Rasmussen replied yes, what you said is accurate and having it in the law/ the code is real relevance. Moritz added the way I am trying to balance in my mind, we are going to talk about this in the code audit so if we don't do something now it will happen next year. Can Acela be the stop gap instead of hurrying this along without our having had a chance to bring us their best efforts. you know this may be completely rewritten in the next year even if we did make a suggestion tonight because during code audit process, they may say this is not what we want for our city. There will be a fix, all of us in the city value the notice, want to make sure we are not jumping ahead. Rasmussen replied a year from now is too late for my purposes, noting why.

Adams asked are you saying the ordinance you asked for last year you don't believe a decision made on Roberts is protected on that, Rasmussen replied we will see what LUBA says, a discussion ensued.

Adams added I've said that repeatedly and said earlier if they would have done this a day later you would have gotten notice, and the other party would have done the same thing you are doing, a discussion ensued.

Newton added my concern is in the middle of code audit, there is a lot of time and effort going in, and to do this well will take a lot of time to get it right, or we will have bound our staff with possible rules that they can trip on something really simple. But also respect the concern you have and find something that works. Didn't find it in any of the three you submitted. Rasmussen summarized the three he submitted, a discussion ensued regarding the items submitted and electronic notification. Rasmussen noted all of the decisions I am aware of, all are appealable, a discussion ensued.



Newton asked are there any members in the audience that would like to speak:

Lisa Kerr

I completely sympathize with why the LLC is asking for this. I went back and listened to planning commission meetings until I found the one where the planning commission unanimously decided to deny the stability beam, then found out it was approved administratively, and no one knew about it. That's why this is happening. I want to say I use Acela twice a week for a considerable amount of time for a job to do. I press on land use applications, related documents on each application for Clatsop County, and I get drawings, building plans, geotechnical reports, wetland delineations. When I go for Cannon Beach I get a list of the applications that get put forth, but with not reports included. So I need to a public records request. I don't think the stop gap of Acela as we have now is good enough.

Matusick added I agree with Kerr. I looked around as well. Is the only downside the staff time? Adams replied also the likelihood that something doesn't get noticed that should. Kerr suggested making our Acela work like the counties. Not sure why the city won't do it, and if they can't they should provide notice. Adams replied the county is on electronic plan review and we are not on it. We don't have the resources but are discussing doing it. The next 6 months goal for plan review. St. Clair noted when a planning decision is made, tree removal, etc. the final is attached when it gets pushed out. We have times when only the application is attached to the record. I have a number of records that are waiting for additional information. When I get it, it happens the same time a decision is made and then the record is pushed out complete. Adams noted the publicly noticed decisions is being put on the public notice page. There is so much more available electronically then when I first came here.

Newton asked is anything proposed by Rasmussen that we can make workable? Adams replied what Will provided is not the law/code in any of them. We are going beyond than what he provided for you, a discussion ensued.

Knop suggested you should go through proposal and come back with recommendations. Adams replied I am happy to but getting to here but from what he's proposed is a stretch. Newton added our city staff got put in the box where they were going to lose anyway, and they had to cross every I and dot t and there was no intent to deceive. With that in mind you have a planning commission that supports you in finding a way to protect the interest that we believe you have a real complaint here and we're trying to balance against last few years of a huge issue that we are trying to support our staff in. I think we can do this and protect you and the client. If you come to the conversation Adams, a discussion ensued. Rasmussen noted I understood the chairs request and am wiling to have a conversation with Adams to find something less cumbersome and reach a decision. Knop added I would like Adams and Rasmussen to work together to reach something, the planning commission all agreed.

Motion: Knop moved to continue the hearing until the November 22, 2022 meeting; Moritz seconded.

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

**(5) Public Hearing and Consideration of CU 22-04, Mike Morgan, on behalf of Marilyn Epstein, request for a Conditional Use Permit to allow for the placement of a non-structural shoreline stabilization project at 4007 Ocean Avenue**

**CU 22-04**, Mike Morgan, on behalf of Marilyn Epstein, request for a Conditional Use Permit to allow for the placement of a non-structural shoreline stabilization. The property is located at 4007 Ocean Ave. in a Residential Moderate Density (R1) and Oceanfront Management Overlay (OM) zone. The request will be reviewed under Cannon Beach Municipal Code 17.12.030 Conditional Uses Permitted, 17.42.060 Specific Standards, and 17.80.230 & 360 Shoreline Stabilization & Preservation Grading.

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

St. Clair noted the Friends of the Dunes sent correspondence after the additional correspondence was posted at noon. It was emailed and copies are available. The planning commission paused to read it.

St. Clair read his staff report.

Chair Newton asked if there was any additional correspondence. Address above.

Chair Newton called for public testimony.

Chair Newton stated that the pertinent criteria were listed in the staff report and criteria sheets next to the west door; testimony, arguments and evidence must be directed toward those criteria; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue; prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional testimony, arguments or evidence regarding the application. The Planning Commission shall grant such requests by continuing the public hearing or leaving the record open for additional written testimony, arguments or evidence; persons who testify shall first receive recognition from the Chair, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Chair Newton asked if the applicant wished to make a presentation.

Mike Morgan, Planning Consultant, PO Box 132

I'll try to respond to some of the comments on the Friends of Dune letter. This is the 5<sup>th</sup> project of the year. The other 4 have been approved with conditions. The request is clearly stated no more than 50 cubic yards. We have done this many times. 50 cubic yards is adequate and city staff will make an appearance and observe the deposition of the material. We haven't gone through a full year of king tides and major storms; we don't know how exactly these structures work. It is so much easier and less contentious to apply for cobble berm, seems to be in favor with ORCA and Friends of the Dunes. Going through rip rap process unless house is teetering on the edge would take considerable time and funding. We would like to try the

50 cubic yards, giving example of things taking root. Morgan gave an overview of the property and how this would function. Its fairly straightforward and we will have Tom Horning on site. There was confusion with his first report submitted but cleared up with the second report. We did not end up using mulch for the property and brought in clean sand and didn't need the analysis.

Mortiz said there would be no more than 50 cy but application says 50 plus 10 which is over the requirement for an OPRD permit, Morgan replied I don't think the application says that, Moritz replied saying maybe the staff report. Have you had one in place long enough to see how it holds up with king tides, Morgan replied no, in the past we did burritos, but no cobble berms. Moritz added what's the hurry, does it make sense to give king tide season, so we have some knowledge of how these hold up. Morgan replied as Horning said several feet has eroded away, and no one want sot lose two feet of their yard just to see what happens. Cobble berm in benign, not intrusive, planted with willows. I don't think it's appropriate to wait to see what happens. A discussion ensued regarding potentially waiting to proceed. Morgan added when people see their yard falling in that's when McEwan and I get a call. Not sure how to get the word out to property that may be in need.

Chair Newton called for proponents of the request. There were none.

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

Staff response:

St. Clair - Staff recommends approval with conditions, noting the conditions.

Chair Newton asked if the applicant wished to make additional statements.  
There were none.

Chair Newton Closed the hearing and moved to discussion.

Motion: Bates moved to approve with the conditions as presented; Bennett seconded.

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

#### (6) Review of draft letter to be sent to City Council regarding stormwater discharge on Forest Lawn

Newton said Bates when you asked to move letter up from a work session item into action item the letter you were referencing is the letter that can you please clarify which letter you were referencing there was a letter prepared by a subset of the commission, Lisa Kerr, Mortiz and yourself identifying issues we saw, calling it an overreach by the city staff and dealing with storm water issues on the Forest Lawn development. We are considering the letter that was prepared by the subcommittee of the Planning Commission and Kabeiseman are we good to now talk about this, Kabeiseman replied yes, the appeal went to Council and was upheld, so there is no current application.

Newton said what is behind the letter has a lot of emotion there has been a lot of frustration but I think that we very much focus on being respectful of one another in our conversations so we can come to a positive outcome.

Sinclair said I am struggling with why Planning Commission is proceeding down this path. Newton replied the item of stormwater connection was brought to Planning Commission when the developer for wetland had their conditional use application. Not sure, the owner of 1603 Forest Lawn and other concerned citizens submitted documents in the record that was being created around the application. Sinclair asked the stormwater application or development application; Newton replied the two are co-mingled in a way. That isn't necessarily our normal protocol but those people who submitted information into that process I believe that was appropriate for them to have their voice heard on the session. Planning Commission went back and forth on this issue co-mingling on how to roll into development. A number of times some of our decision considered part of the stormwater, Kabeiseman's advice at the time was to separate. There was a lot of pushback and the compromise was a letter that addressed the concerns and send to council. The letter was drafted by myself, Moritz and Kerr. It was brought to Planning Commission at which point the application had another day and we were told not to talk at risk of jeopardizing the situation. I've heard a number of people say this is not in the planning commission purview, but here we are. Sinclair said the position is valid, but I question whether it is a Planning Commission roll to do it rather than individuals that felt strongly enough to draft it. Anyone can do this, I wondered if it needed to come through Planning Commission. A discussion ensued regarding the letter. Newton added I always believed the intention behind letter was to create a better process for the city. do not want to make a spectacle of any one individual or the city staff in general. I also feel like some mistakes were made and I don't want to see those mistakes made again and so out of respect have not dove into what really is the city's business in as much specific detail as some of the conversations that we've had either as a group or individually in small groups. St. Denis replied I appreciate what you said, would like to get to the point, when this project was being looked at there were two things going and they were separate.

Newton and St. Denis discussed the letter. Bates shared his thoughts. Discussed having a subcommittee and public meetings law. Discussed trust, how to address the storm water. Bates said if we built trust then I don't feel we need to move forward with the letter. Newton asked does the Commission think we should pull back, Knop replied I agree we had a productive conversation. All member agreed to pull back.

Newton asked do we want to form a subcommittee for wetland code language, Sinclair replied lets commission a study, give them what we want and let them get started so that way work is being done should you have something started in case more comes in. Adams replied this would need a budget request through Council, then have to RFP and hire the person, when we are doing the code audit. I understand you want more data, there are also more methods and getting that technical expertise, you may ask crest or somebody from the North Coast to sit on your committee. The process may take 6 months from getting started. Moritz noted the buffer size should be addressed. We have a decent template and have a couple issues with how our regulations work. We can sit down as a group to see what is being done, are other codes working well, for what we want to achieve can we do that with the current standards, and I think the answer is no with what we've been talking about. Newton added some obvious items we can address to make it better as we transition with the code. Newton asked do you want to take full commission on work session, Moritz replied I think that's a good idea. Adams said for this work session item there is nothing that would stop Moritz or Bates from bringing their kind of points forward. Let me know as well and I'll I will pull together kind of a Wetlands 101 of how the ordinance actually functions and then do some GIS work to let you know what properties are currently affected by our code and then how much how many is vacant and things like that. Newton added one thing that that would be really helpful for me are the maps just putting those Maps up on the screen and walking us through right how do you interpret what's the difference between a local Wetland inventory and an effective tax life that sort of a conversation would be so helpful.

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

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

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

### **NON HEARING ITEMS**

(7) Wetlands Task Force organization

### **INFORMATIONAL ITEMS**

(6) Tree Report  
No comments

(7) Ongoing Planning Items

Adams noted the code audit is still going and the TSP will be at City Council. The code audit report should be ready in December.

(8) Good of the Order

St. Denis said thank you and Newton it was a very productive conversation.

### **ADJOURNMENT**

The meeting adjourned at 10:13 pm.

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Recorder Jennifer Barrett