

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, November 22, 2022

Present: Chair Clay Newton and Commissioners Barb Knop in person
Commissioners Mike Bates, Charles Bennett, Aaron Matusick, Les Sinclair 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, Recorder Jennifer Barrett, 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: Knop moved to approve the agenda as presented; Charles seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of October 27, 2022.

Motion: Charles moved to approve the minutes; Mickey seconded the motion.

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

Public Comment:

Jan Siebert-Wahrmund PO Box 778, Cannon Beach

I offered last month to look into the bioswale possibility for Forest Lawn and possibly other situations. The North Coast Watershed Association Director Graham Klang visited site with me and the site on 7th and N Laurel, he thought there would be the possibility of bio swales at both places that could help the drainage situations in an environmental way if desired. I talked with Bruce St. Denis and he was going to hope to give an update as well.

(3) Continuation 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.

Adams noted that staff per the Planning Commission's request to work with Rasmussen, I sent something two weeks ago farming the language from Marion, Scapose and Aurora that is in the document in your materials. I've discussed with Rasmussen. He has a couple new exhibits in there that reflect his response. Also talked on the phone and I issued a letter stating a courtesy notice that we will give notice of any decisions on that property, clarified in email today to get back on any notice he is requesting. There was no new additional correspond after the email sent this afternoon.

Will Rasmussen, the applicant, following the Planning Commission's suggestion to work on amicable language we got close to a resolution. As part of it Adams said we will give you notice on Roberts and abutting Nenana Way, and that's our primary motivation on this. In the record Adams gave a clear letter stating the city will provide that notice. As a result, my client doesn't want to waste more city time, energy and money on the code amendment and trusts the city will follow through. We are satisfied with how the city is proposing to move forward on this, and we can withdraw the application on the code change. The applicant withdraws the application. Newton said thank you, these comments will be great for the code audit, and I am glad you guys came up with a amicable solution and consider the application withdrawn.

Knop to clarify, you are not making any changes, Adams replied it's a perfect example of how we can make these types of changes with the code audit. Bates asked will that solution be available to any with a concern with something going on in the community? Adams replied everything but a type one development permit and what is in the language is available now. But because the way the alternative application got in the day before notice was required, that was the only reason he wasn't noticed. All but the development and possibly the right-of-way permit, everything else is pretty much noticed. If someone were to put in a request for that for one property, we would do that. We want to clarify that in the code audit and that's my main goal.

(4) 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.

CD 22-01 & CU 22-03, David Vonada, on behalf of David Pietka, request for a Conditional Use Permit to allow a cluster development subdivision consisting of a seven-lot subdivision containing four single-family dwellings and a six-plex apartment building, with common lots for parking and wetland areas. 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.

Adams noted at last meeting we discussed the HOA and bringing back language to discourage people from getting out of the affordable housing agreement. Pietka preferred to take to Council to talk about the agreement and restrictions. I would note from the staff perspective everywhere I worked it was happened at the Council level but does not preclude Planning Commission giving a recommendation. The case before you with affordable housing is not something we've had since I've been here. We had one with Mike Clark, and the applicant wants to move forward. Any restrictive language would go through Ashley. I recommend approval based on those conditions.

Newton asked what is the mechanism of this to go to Council, Adams replied the agreement. They will have to have an HOA with CCRs approved and a development agreement. Newton said so we are doing a conditional approval and punt it to Council, Adams replied yes. They can't do the project unless those are in place. Bennet I question the timing on the agreement, Adams replied that's another thing you can condition with how many years you recommend. Bennett said I still have concerns with not seeing some sort of agreement. Newton added I share that.

Bates said can we take on confidence that Bill Kabeiseman would say not to open the record. Newton said so no additional public comment.

Bennett said without seeing any version of an agreement, my assumption is the moment is becomes economically better to void the agreement, if they can, they will. Newton replied I share the concern but may be able to manage around it. Knop added I share the concern and would like it to be perpetuity. Mortiz added many jurisdictions ask for 60 years as standard. Knop replied 60 would be good. Bates said the limited commercial zone and approve a development for high density residential, but we don't know what we are getting in return, noting several code sections he is concerned about. What we are losing by giving here is losing the ability to control the lot sizes, influence dimensions, control lot coverage, and by not using residential zoning provisions is an agreement we will not like all that much. We could do better under R3. I appreciate the position city has taken. Our action would have the same impact if we denied. They could still appeal, but we should be able to tell Council why we don't like it. Mortiz added if you rezone residential then at that point you don't have any control and don't have to make it affordable housing. You just end up additional housing, a discussion ensued. Newton said I don't think we can go in and change the zoning on them with an application submitted. We can make it attractive to do affordable housing then offer something that helps something pay the bill. A discussion ensued regarding zoning and cluster developments. Matusick added we have been through this before and Kabeiseman weighed in on the last meeting. Bates said if I had my way, we'd do this under residential zone and cut the number of houses. We have little of what a tentative plan should contain. We have a promise that we will get them, but we do not have them. Newton said we can say no based on not having them or try to find a way to move this forward, such as conditioned on getting more information or presenting to Council. There are several pieces that are subject to Council before the pieces are final. Bates asked how is it memorialized, Adams replied through your findings. Bennett said we have two choices, approve with conditions suggested to Council, or deny with the reasons why. Newton added one other suggested subset which is cut the number of houses and add more units in place but will defer to Kabeiseman on it. Bennett said we can disapprove and say we don't want so many units. Mortiz replied I would want to be certain if we do an

approval we are clear that there are X amount of affordable housing put in place. I am concerned that there are not strong enough deed restrictions but at the end it doesn't even happen. Unless we are clear there is no guarantee there will any affordable housing in the project. Be clear. The only reason it's happening is for affordable housing. We should include no short-term rentals in case it can be rezoned in the future and its allowed. If there is an approval include something about needing to be sure there is enough strength to deed restriction, taxes waived or city funds used there will repayment, but doubled or tripled, something to make them not back out of, a discussion ensued. Newton suggested including these will never be condo-ized. Bates said the cluster development conditions; clusters are limited from short term rentals. Newton added minimum number of housings, minimum time for the affordable condition, no short-term rentals, no condo, making penalties strong enough. Adams added you can add within state statues. Sinclair added I agree with the conversation if we go with an approval, it needs to be specific on conditions. Not sure what the right time frame is, there has to be something in there with stiff penalties for breaking it. For changing proposal on table, I don't believe we have the ability to tell the applicant we'd rather see more apartment and no houses, that's ultimately a council decision when they make the final decision that they are satisfied. Bates said we have the ability to enforce density restrictions. Newton added if we are doing an approval I agree, but if a denial with reasons on why so cc can talk to council then that would be the mechanism for them to have the conversation. Matusick added I think that's the path we go, disapproval and why. Newton added it is important not to be just a density conversation. There is a good proposal in front of us tonight.

Kabeiseman said the city can't prohibit turning into condo, that's allowed by state law. Also, there is a provision that says the city may not condition application for housing on reduction in density if certain conditions are met. Be careful about conditioning things on density. Newton asked what about increasing density, Kabeiseman replied the difficulty is when you have an application for 4 and you condition to 6. What's that 6 going to look like, that's always problem with developing from the dais. Matusik said if we disapprove it's not an issue, Kabeiseman replied that is correct. Bates added we have the ability to enforce density requirements in the code, Kabeiseman replied that's a broad statement. We have clear and objective standards that talk about density we should be able to enforce those, a discussion ensued. Adams noted it's commercial, noted zoned residential so no density requirements in a commercial zone. Bates said there is on multifamily, Adams replied that is on a R3 zone, a discussion ensued. Newton added we have a code audit going on for a reason. Bates said when in the code when two provisions you go with the stricter one. Adams said there is also one that says Planning Commission gets to make that determination, a discussion ensued. Newton added the messiest thing I saw was a planned unit development, the cluster allows us to do what we are tonight, there are risks, but part of the question is do we want to do that with what we want to achieve. Bates added we can do the same thing by doing this under residential zoning area instead of commercial. Newton replied we have a developer willing to have a conversation about that to put there, if we box them in we will get pushback and not get what we want. Moritz added if we rezone, I don't know how we can make conditions for affordable housing. We can't force rezoning and make a condition of the rezone some use of that land. Kabeiseman added I have never seen a rezone where use is limited to one particular zone, could it be possible, maybe, but would get in a lot of trouble if we limit to affordable housing. Adams added you can't put conditions to make someone put entirely affordable housing, a discussion ensued. A discussion ensued regarding rezoning after an application has been submitted. Moritz noted what we lose is any ability to place conditions on the approval of the application and the Council loses that too if it is rezoned. If rezoned, he will only build homes for people with lots of money, there is no leverage if rezoned to R3, a discussion ensued.

Bates added my opinion is our best approach is to reject it. Newton replied I would need good reasons to reject it, a discussion ensued regarding options. Moritz noted potential reasons to reject, adding this is a lost opportunity over time. The city needs to make back more than what's been put in to start with. It doesn't hurt to say we are concerned that the applicant wasn't willing to discuss more details of this manner. Bennett added I would like to see fewer houses and more units in a new proposal. Moritz added do we want to put a minimum number for deed restrictions, Matusick replied 60 years should be the minimum. Newton added if we have a 60 year term, but someone comes in and says they only gave us a break on the water connection, do you use any reason to tie the time to benefit? Kabeiseman replied some of the time period for that type of restriction is tied to the amortization of the property. I can't think of reason you couldn't use a longer period. I not aware of a general prohibition, a discussion ensued.

Newton asked about having a DRB condition, Adams replied it will go through DRB. Newton added I drove through Spruce and Hemlock and only saw cedar siding or natural wood. What's popular now is hardy plank, but that doesn't fit the village character. Could the Planning Commission put a condition in? Kabeiseman replied typically if you have a condition you have to relate back to a criteria it relates to. Looking at the condition use criteria I don't see one where the Planning Commission gets to design characteristics. Bates noted there is one variance for proposed cluster to say be in harmony with area. Newton replied can we memorize what's already there? Adams replied for your comfort DRB just denied an application that it was not shingles in a downtown corridor and wanted a different siding, they are cognizant of that. Bennett asked if we deny with reasons why, is it possibility that City Council will say need to resubmit new application to us, Adams replied they can remand it back to us.

REVIEW AUDIO INSTEAD OF JUST TEXT

Motion: Bates moved to deny the application, both of them under, article 16 & 17 Cannon Beach Municipal Code including specific provisions Adams provided in the summary under the following reasons, not having an affordable housing agreement in place to review, not having detail of agreements, penalties, our preference to be more affordable housing units and less private dwellings, didn't have assurance that the proposed affordable housing would be built, not having assurances for proposed affordable housing agreement which should at the minimum be for 6 units at 60 years at 80% AMI with plat note no future partition subdivision or short term rental, and stricter damages such as X% of value of property as a deterrent for default

Mortiz noted if not explicit, these could become short term rentals. I am not sure if that's a legitimate concern or not. Kabeiseman replied the city can change short term rentals at any time so it is a legitimate concern. Moritz added I would like a commitment or deed restriction that there will never be STR, no future partition or subdivision.

Knop seconded the motion.

Vote: Bates, Bennett, Knop, Matusick, Moritz & Chair, Newton voted YEA; Sinclair voted Nay. The motion passed 6/1

Took break at 7:26 pm reconvened at 7:32 pm

(5) Public Hearing and Consideration of SR 22-03, Beach Construction, on behalf of Eric & Rachel Purdy, application to allow a setback reduction to reduce the front yard setback side yard setback

SR 22-03, Beach Construction, on behalf of Eric & Rachel Purdy, application to allow a setback reduction to reduce the front yard setback from the required 15'0" to 9'10" and the side yard setback from the required 15'0" for a corner lot to 11'0" in order to reduce the number of trees that would need to be removed in conjunction with the construction of a new single family dwelling. The property is located at the corner of Ross Ln. and Spruce St. (Tax Lot 10200, Map 51030DA), and in a Residential Medium Density (R2) Zone. The request will be reviewed against the Municipal Code, Section 17.645.010, Setback Reduction, Provisions Established.

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 read his staff report.

Moritz asked did the arborist review the shifted plan and what was his response, St. Clair replied I do not know if he reviewed or not. My understanding is it was developed with original arborist who was working with the applicant and the city arborist.

Chair Newton asked if there was any additional correspondence. There was none.

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.

Eric Purdy

I worked with Adams to come up with options, he put a couple that may be approved based on challenges of the lot size. We elected this set back reduction to mitigate some of the development challenges. The site plan shows the difficulty we have on site. We worked with John from Coaster Construction who said it was difficult to build on the property without removing trees. We also worked with Joe Balden, working on tree protection program and what trees would be saved by setback. The large issues the city arborist brought up were trees on adjoining west property, one tree on property line and several on property abutting the

line, this setback reduction would help minimize any potential impact of roots by moving the structure further from those restructures to of the property to the west. In addition to this we're also looking to switch to a post and beam construction to help preserve the larger roots. While we find it might be difficult to preserve some of the trees on the lot because of the difficulties we are looking to mitigate any damage to the trees to the west, that's our goal.

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

Chair Newton called for opponents of the request.

Jan Siebert-Wahrmund and Wes Wahrmund PO Box 778, Canon Beach

Regarding tree removal permit request for removal of 11 trees from the Purdy property at corner of Spruce and Ross. We support the city arborist's denial. Ask you now as our City arborist recommend to the Purdy's to go back to the drawing board with an emphasis on tree preservation and root protection being followed where with setback reduction request. We think not. It does not go far enough. How many of the 11 trees would actually be saved by granting the setback request. Please deny the setback reduction Request.

Staff response:

St. Clair said staff does not make a recommendation as this application is in response to an administrative denial. St. Clair noted the representative with Beach Construction had to jump to another meeting, and I don't see Joe Balden online.

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

Chair Newton Closed the hearing and moved to discussion.

Bennett said unless it showed going from 11 trees to 7 trees, but if it goes from 11 to 10, I would vote against it. Knop added I would like response from City arborist before I consider the request. Moritz noted those are some beautiful trees. Adams asked would you like to continue to this, Newton replied we can do that. Bates added I agree we should continue. When we continue, I would like to know was the discussion with you to reduce damage to trees there, you discussed options. Adams replied what I do when they come in with a situation like this I give them their options, you can try for setback reduction, a hardship variance, I give the scenarios and options through the code. Adams added as St. Clair stated, our arborist also speaks with their arborist and they have discussion on techniques/saving foundation. With the setback reduction I can see where you'd want Jeff Gerhart to weigh in. Bates said I am also wondering if going to grant a variance if we chose would we want more to know more about tree mitigation they will undertake. Would it be unfair to ask that? Adams replied I don't ask for anything more than what is in the standard. They can ask for setback reduction using the criteria listed. Newton added it may be a good to have a conversation with the city arborist.

Motion: Knop moved to continue to the next meeting; Bates seconded the motion.

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

Newton noted this item has been moved to December 22 for consideration with the arborist for discussion.

WORK SESSION ITEMS

(7) Zoning Considerations for Cannon Beach Elementary School Rejuvenation Project

Adams gave summarized the staff report. What we are asking for tonight is where this is going to go, is your idea of what that community facility, what parking spaces should be requested as off-street parking. The applicant will then come back before you in a future public hearing to ask for a variance from that number. We don't have a code for this type of use. The facility will not all be used as a meeting room as one time.

St. Denis gave an overview of the facility and parking concerns. This concept is an event center that has been envisioned for a long time but may not meet the code in terms of parking. When used as a school the parking requirements was met offsite. We will never hold an event using the entire gym and all four classrooms as one time. St. Denis noted the option for parking elsewhere and walking to the site. We hope to balance the inconvenience or ability to meet the parking requirements be offset by having that center which is a game changer for this town. There is no place for groups to meet and they can use this facility. We appreciate you looking at this. St. Denis introduced Dustin Johnson from CIDA.

Johnson summarized the memo from the packet. St. Denis noted the site plan in the packet gives an idea of how we are planning to use the spaces. Johnson gave an overview of the Red Plains aerials with the one-way traffic options. St. Denis gave an overview of the access to the site, adding Council will be discussing the reallocation of the 15-foot right-of-way.

Bates asked are you asking us to help you decide this variance, Adams replied the off street parking variance will come before you for your consideration. Tonight, we are asking for you guys to give a number of what you think these uses would require. The ordinance says evaluate on case by case based on standard, but we have limited uses provided. So, when they come back to you for the variance you will need to decide this at a future meeting. Discussed standards to use for the criteria and the potential number of spaces. Discussed onsite parking options.

Bates said the community development center one for development opportunity organizer/per employee. St. Denis noted 12 is the number we can provide. Moritz added am I understanding whatever number we give there will be a variance request, Adams replied yes very likely. Newton said we will get a request for a variance saying we can't provide the code required parking spaces, here's what we can provide. By figuring out how to classify we can give guidance to how many spaces will be needed. Adams added you are setting the parameters for what they will make their arguments, noting the options with education, community center space, that will set the number. Newton said classrooms, Adams added I suggested classrooms for current classroom space which is one per teacher, but we would say volunteer or employee, then the other utilized as community center/cultural center 1 to 400 which is our general one. Knop what if we called the person in classroom the presenter, Newton replied I like that. The Planning Commission reached a consensus.

(8) Wetlands in Cannon Beach

Adams presented a PowerPoint presentation; a copy is included in the record.

Bates said very impressive Adams, that's a good summary. Newton noted the potential options for wetland buffers, a discussion ensued. Bates noted possible actions to move forward. This will move forward as work session item. Bates added anyone interested should submit to Moritz or me. Knop reminded that this is not a task force. Sinclair added I was thinking a lot of stuff online, wanted to propose or mention some of the more robust policies I found actually have an element where you can rejuvenate or repair damaged wetlands in one area of city in return for being allowed to do something on a lot, would that be possible. Moritz replied I've seen that done a lot and it's usually a cheap trick, a discussion ensued. Newton added there is a house in my neighborhood who is now experiences flooding. My opinion is the footprint of that house is larger than the one it replaced. It would be good to discuss how they put a house on a lot with the foundation. Those wetlands rare not allowed to drain if you have a big slab of cement there. Adams said just let us know when you would like it on the agenda or if it's a standing work session item, just let us know. And if you needed data or maps, please let me know.

INFORMATIONAL ITEMS

- (6) Tree Report
Bates said great work again. A very encouraging month
- (7) Ongoing Planning Items

Adams reported the TSP has been approved. An Ordinance will go through next month. This will go to a work session in January with Council for a priority session for TSP/parking to get their thoughts on projects to move forward. The code audit is going. I asked them to draft language for contract to extend contract to do the changes. If you haven't signed up for December 6th for North Coast Housing Summit in Seaside. There is a coastal meeting from Columbia ,Tillamook and Clatsop elected officials to talk abut affordable and work force housing.

Newton noted next Thursday will be the review of findings. Adams said the notice will go out and will get out to you as soon as possible.

- (8) Good of the Order

Newton said we have Emily with us tonight and we are looking forward to working with you.

ADJOURNMENT

The meeting adjourned at 9:14 pm.

Recorder Jennifer Barrett