

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday October 26, 2023

Present: Chair Clay Newton Commissioners Erik Ostrander, Mike Bates, Les Sinclair and Anna Moritz attended in person, Aaron Matusick attended via Zoom.

Excused: Dorian Farrow

Staff: City Manager Bruce St. Denis, Director of Community Development Steve Sokolowski, Land Use Attorney Bill Kabeiseman, City Planner Robert St. Clair and 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 presented; Commissioner Sinclair seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of August 24, 2023

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

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

(3) Public Hearing of CU 23-02, Red Crow LLC on behalf of Patrick/Dave LLC for the Conditional Use Permit.

CU 23-02, Red Crow LLC requests on behalf of Patrick/Dave LLC for the conditional Use Permit for the purpose of creating a private use board walk in an upland which spans 16'-6' of wetland buffer. The property is located on South Hemlock and Forest Lawn Road (Tax Lot 4100, Map 51030DA). The property is currently zoned (R2) Residential Medium Density. The request will be reviewed under Municipal Code section 17.80, Conditional Uses.

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 the staff report.

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.

Jamie Lerma
PO Box 825
Cannon Beach, OR 97110

Lerma explained the proposed project details and that none of the buildings are proposed to be in wetland areas. The boardwalk is in a buffer zone. The boardwalk is being used as a means for the homeowners, visitors, and emergency personnel to access the buildings.

Lerma spoke about the proposed project and how environmentally responsible and low impact the project is. Per the wetland expert, "the boardwalk will have no detrimental effect on the functions and values of the wetland buffer." The expert has worked on many projects involving boardwalks to successfully span wetlands and wetland buffers.

Moritz asked about the access availability to build the project, regarding exhibit A-3 and construction in a buffer zone. Clarification was sought to determine if a conditional use permit would be required for grading.

Bates asked about the dimensions and materials of the boardwalk. Both Jay Orloff and Lerma were able to clarify the concerns.

Ostrander asked where the southern edge of the walkway was in accordance with the property line.

Jay Orloff
PO Box 563
Cannon Beach, OR 97110

Orloff answered Bates' concerns regarding the difference in the width between the drawings and project proposal of the walkway which is dependent on railings of the walkway which are not required.

Chair Newton called for proponents of the request. None

Chair Newton called for opponents of the request.

Jan Siebert-Wahrmund
PO Box 778
Cannon Beach, OR 97110

Siebert-Wahrmund asked for denial of the project based on confusion of the application and that there does not appear to be realistic way to access the property.

Lolly Champion
PO Box 614
Cannon Beach, OR 97110

Champion read her comments as submitted.

No further response from staff.

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

Chair Newton Closed the public hearing at 6:37 pm.

Chair Newton asked Director Sokolowski to clarify the memo considering the Conditional Use Permit. Sokolowski explained the Municipal Code Ordinance in question.

Several Commissioners voiced concerns that there wasn't a site plan that shows the actual location of the proposed building regarding the bridge, yet there are setback restrictions, and no Type 1 Development Permit has been submitted. Sokolowski suggested making a condition of approval that the Planning Commission review and approve the building plans prior to a permit being issued. Bates believes that the bridge is an accessory structure and that there are setback reduction violations.

Emergency access, and parking issues were discussed. Both Bates and Sinclair gave support for the changes in the plan.

Motion: Sinclair moved to deny the request based on lack of setback reduction and bring it back with answers (setback reduction, accessory structure with setbacks and a completed set of plans); Bates seconded the motion.

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

(4) Public Hearing of ZO 23-02, The City of Cannon Beach request Zoning Ordinance text amendments.

ZO 23-02, City of Cannon Beach request for Zoning Ordinance text amendments to Chapter 17.43 Wetland Overlay Zone. The Zoning Text Amendment request will be reviewed against the criteria of the Municipal Code Section 17.86.070A, Amendments Criteria and the Statewide Planning Goals.

No one objected to the jurisdiction of the Planning Commission hearing 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.

Sokolowski read his staff report and introduced Marcy McInelly from Urbworks.

Urbworks
1095 Duane St
Astoria, OR 97103

Urbworks went through the wetland overlay package for the group.

Moritz spoke with McInelly regarding the 1,000 SQ footprint limit. For example, if you had enough upland on your property to build a structure that fits within the City's FAR analysis that would be fine. The 1,000 SQ foot was to ensure that if you didn't have enough upland to build at least a 1,000 SQ foot house. This clause is used to be a backstop but is not a limit to all building on a wetland lot of record. Bates clarified that if you must use the buffer, then it is a limit on the size of your house.

Chair Newton called for public testimony.

Bob Lundy
PO Box 1357
Cannon Beach, OR 97110

Lundy expressed his concern to polish up the text as he is a text editor. He did not change any of the content.

Shawn Zavoshy
PO Box 105
Lake Oswego, OR 97034

If his house is 1,600 but within 10 feet of buffer if that changed and the house burned down could he rebuild the house as it would it have to be two story? If the house would have to be two story, then the insurance won't pay for it.

Kathy Kleczek
PO Box 602
Cannon Beach, OR 97110

Owner of property that will be severely affected by this ordinance as written. Many questions regarding FEMA, insurance, spoke about fees and financial hardships. Hardship provisions for variances, also concerned that additional planting in wetland buffer areas to keep land from sluffing off.

Leslie Dowd
PO Box 704
Tolovana Park, OR 97145

Totally in favor of this project. Concerned about buffer zone and being able to build a 1,000 sq ft home. Spoke about 2863 S Hemlock St where house was built on wetland property, very concerned that we preserve the wetlands and not develop. Dowd wants more restrictions on development of wetland lots of record. Builders cut through trees without permits, no building inspections seem to be happening.

Jan and Wes Siebert-Wahrmund

Please do all you can to further the protection of our Cannon Beach wetlands to be better preserved for both the present and the future. Thank you for your time on this project.

Bob Lundy

Mr. Lundy will transfer mark-ups to the most current version of the code.

Marlene Laws
PO Box 945
Cannon Beach, OR 97110

Born here, the whole town was wetlands, we have a history of filling in, and she agrees that it needs to stop.

Kathy Kleczek

Wanted to add that there were no provisions for pre-existing buildings that would be determined non-compliant.

Chair Newton asked if there was any additional correspondence.

Chair Newton called for public testimony at 7:33 pm.

Chair Newton explained the project, the reasoning and goals of the wetland overlay code updates.

Bates spoke to the questions regarding non-conforming uses and suggested looking into municipal code sections Chapter 17.82, Nonconforming Lots, Uses and Structured – Pre-existing Uses. Also, code section 17.84, for Variances. These sections should help the folks asking questions regarding their property specifically.

Moritz noted that clarification in the revised code stating that activities and uses in existence be allowed to be maintained. Furthermore, there was a question about vegetation which is not something that comes before planning commission; that would be a Type 2 Development Permit. The group did attempt to find a balance with property value.

Discussion ensued regarding a continuance and the lack of State Reports. Ostrander commented on the lack of time the public has had to make themselves aware of the suggested changes and the sentiment in the community to have more time for review of the proposed changes.

Individual public comments were discussed by the commission, praise to the map making skills of St. Clair. Liden and McNelly were advised of some fine tuning and updates.

INFORMATIONAL ITEMS

(6) Tree Report

St. Clair reviewed the tree reports for August and September 2023

Commissioner Bates requested that we go back to the previous for that we used to use. St. Clair agreed.

(7) Ongoing Planning Items

Regional Housing meeting in early October 2023, discussion regarding affordable housing within different communities.

The Cannon Beach Rejuvenation project is ongoing as well as the Police Station and City Hall building projects.

Design Review Board – A member of the DRB approached and asked Chair Newton about how the different Boards and Commissions work together. Sokolowski discussed with the Commission that he has met with the different members of DRB individually and continues to offer support and clarification when he can. Newton suggested some training for the members of the DRB.

Dark Skys – The Commission wants to make sure that the City Council the information collected.

(8) Good of the Order

Housing

ADJOURNMENT

The meeting adjourned at 8:16 pm.

Administrative Assistant, Emily Bare