Cannon Beach City Council
Staff Report

ZO 18-01 & CP 18-01 CONSIDERATION OF ZO 18-01 ZONING ORDINANCE, CHAPTER 17.42 OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE AND 17.80 CONDITIONAL USES, COMPREHENSIVE PLAN TEXT AND FOREDUNE MANAGEMENT PLAN AMENDMENTS REGARDING THE SAND DUNE CONSTRUCTION AND FOREDUNE MANAGEMENT POLICIES FOR THE CITY OF CANNON BEACH.

Agenda Date: October 29, 2019
Prepared By: Jeffrey S. Adams, PhD

SUMMARY & BACKGROUND

Process
City Council began its process on September 11th with a Science Work Session and followed with five Public Hearings, including this hearing of October 7th. These proposed amendments to the Comprehensive Plan and Cannon Beach Municipal Code are held to the following standards:

CRITERIA
The proposed Foredune Management Plan Update, Comprehensive Plan and Zoning Ordinance amendments are subject to the following criteria:

• Municipal Code section 17.86.070.A;
• Applicable policies in the Comprehensive Plan;
• Statewide Planning Goals, especially goal 18, Beaches and Dunes.

These criteria are excerpted below.

17.86.070.A: Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied: 1. The amendment is consistent with the comprehensive plan; 2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.

Cannon Beach’s ability to satisfy land use needs depends on a sufficient supply of land for housing and commerce. The proposed amendments do not add to or subtract from land zoned for residential use or commercial use; nor do the amendments affect the buildability of this land.

Comprehensive Plan Policies:
Staff has updated the proposed Comprehensive Plan amendments to reflect the direction given of striking all language regarding ‘grading for views.’
Points of Consideration

1. To the Mayor and City Council of Cannon Beach:

The Cannon Beach Planning Commission submits to the City Council the accompanying Foredune management Plan amendments to the City’s Comprehensive Plan and Municipal Code, but does so with reservations. As the Council is aware, the City’s current Comprehensive Plan allows for foredune management in order to maintain views but does not require the City to allow such dune grading. During an extensive public process focused on these matters, it became clear to the Planning Commission that there is no consensus, either among Cannon Beach residents or on the Commission, to allow such dune grading. Many Cannon Beach residents opposed dune grading for views. In fact, some residents favored placing the issue on a ballot. Accordingly, the Planning Commission recommends that the City Council carefully consider whether to allow dune grading for views at all, and that you adopt the accompanying Foredune Management Plan only to the extent that the Council decides to allow such grading activities.

_The City Council has given direction to remove all language surrounding ‘grading for views.’_

2. Should Council adopt the Allan Report, as an appendix to the Comprehensive Plan, as proposed by the Planning Commission?

_The City adopted the ‘new science’ of the Allan Report, as an appendix to the Cannon Beach Comprehensive Plan._

3. Should Council adopt the Comprehensive Plan policies, as proposed by the Planning Commission?

_Staff has updated language to reflect the new grading direction._

4. Should Council adopt the City of Cannon Beach Foredune Management Plan, 2018, as proposed by the Planning Commission?

_Staff has updated the language of the FMP, reflecting the Council’s direction to strike the management unit area focus of foredune grading, in favor of a ‘maintenance’ approach, form Silver Point to Chapman Point._

5. Should Council adopt the Zoning Ordinance amendments, as proposed by the Planning Commission?

_Staff has proposed a new version, incorporating the technical changes and the direction of Council, including:

   A. Should preference for a combination of native and non-native grasses be specified in Foredune Grading Plans?

   _Council has asked for a ‘flexible’ approach that would allow for a combination of grasses types, depending on best practices and the specific project._

   B. Should preference of planting season be specified as April through June?

   _Council has specified an approach that prefers no planting between May and November, except for emergency situations and allowing plans to specify the best approach per project._

   C. Should limitations on the location and depths permitted in the movement and deposition of sand be specified to the BFE+4, plus one-foot safety buffer for predicted sea-level rise, where the lower foreslope extends approximately 250 feet out seaward from the secondary foredune crest and down to an elevation of approximately 9 feet NAVD88?

   _Council supports the sea-level rise added height, but has yet to speak to the other deposition points._

   D. Should the depths of the graded sand, pushed seaward, be limited to 12 inches, for protection of razor clam habitat?

   _Council supports the 12-inch depth limit to protect razor clam habitat._

   E. Should preference be specified for slope-grading to 25-33%, for the impacted dunes?

   _Council supports the 25-33% recommendation, with site specific flexibility allowed where necessary._
F. Should the technical changes that are included in A-5 Zoning Ordinance Amendments - Chapter 17.42 Oceanfront Management Overlay (OM) Zone, October 7, 2019, which comport with PC Recommendations be considered.

Council accepts the Technical Changes.

The City Council closed the first session of deliberation, continuing the Foredune Management discussion to Wednesday, October 16, 2019. Deliberation continued on the 16th, with the Council providing further direction, which can be found in the attached Exhibit A-9 through A-11, October 29th edition, ordinance and plan amendments.

6. Should Foredune Grading be permitted through a Conditional Use Permit (CUP) approved through Planning Commission?

Staff has proposed a new version, incorporating the technical changes and the direction of Council, including:

Council gave direction to only allow applications for Conditional Use Permits through the Planning Commission’s approval for preservation grading activities.

If yes,

A. Should the length of time granted a Foredune Grading CUP be a set period per project?

Such Preservation Grading Conditional Use Permits will be limited to one-year timeframes, with monitoring plans providing for yearly monitoring.

B. Should the amount of sand (in cubic yards) permitted to be graded under a Foredune Grading CUP be limited to a certain amount?

Each Preservation Grading CUP will be limited to 2,500 Cubic-yards.

C. Should the applicant provide funds for City-contracted monitoring of the CUP?

Each applicant is responsible to provide funding for monitoring of projects.

7. Should a Maintenance Grading permit, in compliance with an approved Foredune Grading plan, be issued administratively?

Maintenance has been restricted to replanting and where necessary, application of certified organic fertilizing.

If yes,

A. Should a separate permit be issued for each Maintenance project?

No maintenance permit is required for replanting or fertilizing.

B. Should notice be given to surrounding land-owners of each project?

Notice is given for a Preservation Grading CUP, as through any Planning Commission CUP process, but not for maintenance replanting or fertilizing.

C. Should the length of time granted for Maintenance be seasonally constrained?

Maintenance replanting and fertilizing is allowed, as long as the project is under a monitoring plan.

B. Should the amount of sand (in cubic yards) permitted to be graded under a Maintenance Grading permit be limited to 2,500 CY, as currently specified?

No sand can be graded through a maintenance procedure.

C. Should mowing or trimming of grasses or stabilizing vegetation be eliminated, as proposed by the Planning Commission?

Mowing and the trimming of grasses or stabilizing vegetation is prohibited.

8. Should Plantings be held to the planting standards of p. 19, of the City of Cannon Beach Foredune Management Plan, 2018, as proposed by the Planning Commission?
Plantings will be provided the guidelines of the Foredune Management Plan yet will be permitted to allow flexibility to accept the ‘Best Practices’, as identified in the field and literature.

9. Should the perceived ‘Grandfathered’ grading provisions explicitly cease with passage of ordinance?

Language will be drafted to cease all grading for views with the passage of these ordinances.

Procedural Requirements

The proposal amends the Comprehensive Plan and Zoning Ordinance. Plan and ordinance amendments are made by the City Council based on recommendations from the Planning Commission. The Planning Commission’s recommendations for ordinance amendments and amendments of the Comprehensive Plan are attached. This application is not subject to the time limits in ORS 227.178 or the continuance rules in ORS 197.763.

At the November 20, 2018, regular Planning Commission meeting, after 14 months of review, upon a motion by Commissioner Kerr and seconded by Commissioner Johnson, the Cannon Beach Planning Commission unanimously approved the recommended documents, including the Allan Report, the Foredune Management Plan, Zoning Ordinance Amendments and Comprehensive Plan Amendments, with the following reservations:

To the Mayor and City Council of Cannon Beach:

The Cannon Beach Planning Commission submits to the City Council the accompanying Foredune management Plan amendments to the City’s Comprehensive Plan and Municipal Code, but does so with reservations. As the Council is aware, the City’s current Comprehensive Plan allows for foredune management in order to maintain views but does not require the City to allow such dune grading. During an extensive public process focused on these matters, it became clear to the Planning Commission that there is no consensus, either among Cannon Beach residents or on the Commission, to allow such dune grading. Many Cannon Beach residents opposed dune grading for views. In fact, some residents favored placing the issue on a ballot. Accordingly, the Planning Commission recommends that the City Council carefully consider whether to allow dune grading for views at all, and that you adopt the accompanying Foredune Management Plan only to the extent that the Council decides to allow such grading activities.

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on June 3, 2019 unless otherwise noted.

“A” Exhibits – Application Materials

A-1 Beach and Shoreline Dynamics in Cannon Beach Littoral Cell: Implications for Dune Management; ‘Allan Report’; Final Edition;

A-2 City of Cannon Beach Foredune Management Plan – 2018;

A-3 Comprehensive Plan Policy Amendments - Sand Dune Construction and Foredune Management Policies;

A-4 Zoning Ordinance Amendments - Chapter 17.42 Oceanfront Management Overlay (OM) Zone;

A-5 Zoning Ordinance Amendments - Chapter 17.42 Oceanfront Management Overlay (OM) Zone, October 7, 2019;


A-7 Revised Zoning Ordinance Amendments - Chapter 17.42 Oceanfront Management Overlay (OM) Zone, October 16th [clean] edition;
A-10 Revised Zoning Ordinance Amendments - Chapter 17.42 Oceanfront Management Overlay (OM) Zone, October 29th [clean & marked-up] editions;

“B” Exhibits – Agency Comments
B-1 Dr. Sally Hacker, clarification of question from staff, September 24, 2019;

“C” Exhibits – Cannon Beach Materials
C-1 Planning Commission Addendum;
C-2 Foredune Management Plan Staff Report, Science Work Session, September 11, 2019;
C-3 FMP Notes for City Council;
C-4 Oregon’s Statewide Planning Goals & Guidelines, Goal 18: Beaches and Dunes, OAR 660-015-0010(3);
C-5 Foredune Management Plan Staff Report, Public Hearing, September 12, 2019;
C-6 Beachgrasses and their effects on dune ecosystems on the US Pacific Northwest coast, Dr. Sally D. Hacker, September 11, 2019, presentation;
C-9 Legal & Procedural Presentation, Bill Kabeiseman, Science Work Session, September 11, 2019;
C-10 Wind Transport Presentation, Denise Lofman, Science Work Session, September 11, 2019;
C-11 Foredune Management Plan Update Presentation, Denise Lofman, Science Work Session, September 11, 2019;
C-12 Foredune Management Plan Update Staff Report Presentation, Jeff Adams, Public Hearing, September 12, 2019;
C-13 Statewide Planning Goal 18, DLCD Handout, Meg Reed, September 11, 2019;
C-14 Foredune Management Plan Staff Report, Public Hearing, September 14, 2019;
C-15 Foredune Management Plan Update Staff Report Presentation, Jeff Adams, Public Hearing, September 14, 2019;
C-16 Foredune Management Plan Staff Report, Public Hearing, October 7, 2019;
C-17 Foredune Management Plan Staff Report, Public Hearing, October 8, 2019;
C-18 Foredune Management Plan Staff Report, Public Hearing, October 16, 2019;

“D” Exhibits – Public Comment
D-1 Bob Lundy, November 29, 2018, Email Correspondence;
D-2 Bob Lundy, January 2, 2019, Mail Correspondence;
D-3 Dianna Turner, January 24, 2019, Email Correspondence;
D-4 Robert J. Coussens, June 6, 2019, Mail Correspondence;
D-5 Robert H. Schwartz, M.D., August 22, 2019, Mail Correspondence;
D-6 Kathy & Curt Sheinin, September 3, 2019, Email Correspondence;
D-7 Jeff & Jennifer Harrison, September 3, 2019, Email Correspondence, attached,
    “Invasion of New Beach Grass Could Weaken Shoreline Protection,” Oregon State University,
    Newsroom, June 26, 2009, Sally Hacker;
    “Invasive grasses, climate change and exposure to storm-wave overtopping in coastal dune
D-8 Dianna Turner, September 5, 2019, Email Correspondence, attached,
    “Merkley, Wyden Introduce Legislation to Help Communities Protect Coastal Shorelines As the impacts
    of climate change continue to threaten coastal communities, bill would create a grant program for living
    shoreline protections,” undated, Sen. Ron Wynden;
    “Senate Bill S.1730, Living Shorelines Act of 2019,” June 5, 2019, Harris, et. al.
D-9 Diane Amos, September 6, 2019, Email Correspondence;
D-10 Rex Amos, September 6, 2019, Email Correspondence;
D-11 Bob Lundy, September 9, 2019, Email Correspondence;
D-12 Katrina Nguyen, September 9, 2019, Email Correspondence;
D-13 Donn & Donna Bergeron-Doss, September 9, 2019, Email Correspondence;
D-14 Sandy & Kelly Fitzpatrick, September 11, 2019, Email Correspondence;
D-15 David Dornbusch, September 12, 2019, Mail Correspondence;
D-16 Gregg & Sabrina Barton, September 12, 2019, Email Correspondence;
D-17 Lydia Lipman, September 12, 2019, Email Correspondence;
D-18 Mike Morgan, September 10, 2019, Email Correspondence;
D-19 Rex Amos, September 13, 2019, Email Correspondence;
D-20 Carol Keljo, September 14, 2019, Mail Correspondence;
D-21 Skip & Linda Klarquist, September 14, 2019, Mail Correspondence;
D-22 Jason Hays, September 14, 2019, Mail Correspondence;
D-23 Bruce Francis, September 14, 2019, Mail Correspondence;
D-24 Soren, Hannah and Maya Clark, September 14, 2019, Email Correspondence;
D-25 Warren Ulrich, September 14, 2019, Email Correspondence;
D-26 Stan & Judy Blauer, September 12, 2019, Email Correspondence;
D-27 “European Beach Grass”, California State Parks, 2000, submitted by Robbie Dodd, September 14, 2019;
D-28 Kathie R. Kerler, September 14, 2019, Email Correspondence;
D-29 Kathleen Sayce, September 14, 2019, Email Correspondence;
D-30 Shoaib Tareen, September 12, 2019, Email Correspondence;
“Executive Summary,” from Beach and Shoreline Dynamics in the Cannon Beach Littoral Cell: Implications for Dune Management, Special Paper 49, by Jonathan C. Allan, et. al. (2018), with supplemental photos of “Cannon Beach’s Altered Shore”, submitted by Bruce Francis, September 14, 2019;


http://www.oregonconservationstrategy.org/strategy-habitat/coastal-dunes/, “Crabbing & Clamming, by Oregon Department of Fish & Wildlife, “Cannon Beach’s Altered Shore -Photos additional to Executive Summary,” submitted by Robbie Dodd, September 17, 2019;

Bruce Francis, September 17, 2019, including Email Correspondence with Meg Reed, DLCD, “Dune Grading in Cannon Beach, 1999 to 2019,” presentation, by author, submitted into record;

Mary Mims, September 17, 2019, photos submitted into record;

Frank Patrick, September 17, 2019, photos submitted into record;

Edgar Stone, September 17, 2019, photos submitted into record;

Jeannette Stevens and Dave Sund, on behalf of Ecola Inna, September 17, 2019, Letter submitted;


Edgar Stone, September 18, 2019, Email Correspondence;

Maureen F. Browne, September 19, 2019, Letter submitted;

Mike Morgan, September 19, 2019, Email Correspondence;


Cathy Filgas, September 19, 2019, Email Correspondence;

Bruce St. Denis, September 22, 2019, Email Correspondence, with Timothy & Kari Ramey, on behalf of Dr. Hacker;

Mindy Hardwick, September 22, 2019, Email Correspondence;

Peter B. Fisher, MD, September 15, 2019, Email Correspondence;
Cannon Beach City Council Staff Report | Foredune Management Plan

D-55  Cameron La Follette, Executive Director, Oregon Coastal Alliance, September 11, 2019, Email Correspondence;
D-56  Tabea Goossen, September 23, 2019, Email Correspondence;
D-57  Jeff & Jennifer Harrison, September 24, 2019, Email Correspondence;
D-58  David Snodgrass, on behalf of Chapman Point HOA, September 25, 2019, Email Correspondence;
D-59  Excerpts from “City of Cannon Beach Foredune Management Plan, 2018,” with highlights, submitted by David Snodgrass, as an Appendix to comments, on behalf of Chapman Point HOA, September 25, 2019;
D-60  Colleen Toomey, September 26, 2019, Email Correspondence;
D-61  Constance Mahoney, September 27, 2019, Letter submitted;
D-62  Randall & Deborah Strode, September 27, 2019, Email Correspondence;
D-63  Betsy Cramer, September 28, 2019, Email Correspondence;
D-64  Milford & Marjorie Ofstun and family, September 28, 2019, Email Correspondence;
D-65  Advertisement for Friends of the Dunes, at Cannon Beach, in three attachments, which was published in the Cannon Beach Gazette, September 6, 2019, submitted by Dianna Turner, September 29, 2019;
D-66  Mike Morgan, September 29, 2019, Email Correspondence;
D-67  Richard J. Rapp, September 24, 2019, Letter submitted;
D-68  Stephen & Bonnie Tanner, September 30, 2019, Email Correspondence;
D-69  Michael & Claudia Gray, September 25, 2019, Email Correspondence;
D-70  Randy & Terri Neal, September 25, 2019, Email Correspondence;
D-71  Bill Dugovich, September 25, 2019, Email Correspondence, with attached photos;
D-72  Frank & Mary Gill, Katherine Starke and Megan Gill, September 26, 2019, Email Correspondence;
D-73  Robert Schwartz, via Janet Patrick, September 26, 2019, Email Correspondence, with attached photos;
D-74  Edward & Joy Hays, September 27, 2019, Email Correspondence;
D-75  Kristi Diederich, September 28, 2019, Email Correspondence;
D-76  Maribel Diederich, via Kristi Diederich, September 28, 2019, Email Correspondence;
D-77  Gary & Susan Giacom, September 28, 2019, Email Correspondence;
D-78  Julie Clark, September 28, 2019, Email Correspondence;
D-79  Chris Wegener, September 29, 2019, Email Correspondence;
D-80  W. Dennis & Patricia Hall, September 29, 2019, Email Correspondence;
D-81  Joyce Spinks, September 29, 2019, Email Correspondence;
D-82  Sabrina Salas, September 29, 2019, Email Correspondence;
D-83  Wendy Burke, September 29, 2019, Email Correspondence;
D-84  Hope Stanton, September 30, 2019, Email Correspondence;
D-85  Jennifer Harrison, September 29, 2019, Email Correspondence;
D-86  Jeanne Simpson, September 30. 2019, Email Correspondence;
D-87  Terry Thorpe, September 30, 2019, Email Correspondence;
D-89  Stephen & Bonnie Tanner, September 30, 2019, Email Correspondence;
D-90  Robert Lundy, September 30, 2019, Email Correspondence;
D-91  Jebra Turner, September 30, 2019, Email Correspondence;
D-92  Lisa Kerr, September 30, 2019, Email Correspondence;
D-93  Eric & Cleita Harvey, September 30, 2019, Email Correspondence;
D-94  Rex Amos, September 30, 2019, Email Correspondence;
D-95  Jan, Ron & Ryan Beazely, September 30, 2019, Email Correspondence;
D-96  Janet Patrick, September 30, 2019, Email Correspondence;
D-97  Lolly Champion, September 30, 2019, Email Correspondence;
D-98  Tiffany Moore Sterling, October 1, 2019, Email Correspondence;
D-99  Melanie Gardner, October 1, 2019, Email Correspondence;
D-100  Cathy Dugovich, October 1, 2019, Email Correspondence;
D-101  Bart & Carol Withers, October 1, 2019, Email Correspondence;
D-102  Mary Beth Cottle, October 1, 2019, Email Correspondence;
D-103  Mike Morgan, October 1, 2019, Email Correspondence;
D-104  Siebert-Wahrmund, Collection of comments, from September 12, 14 & 17, submitted into record on October 1, 2019;
D-105  Various excerpts and documents, submitted into record, by Jeff & Jennifer Harrison, October 1, 2019;
D-106  Andrew Kerr, III & William Ittman, Letter submitted, October 1, 2019;
D-107  Karen J. Hadley, Letter submitted, October 1, 2019;
D-108  Douglas J. Hadley (The Rev), Letter submitted, October 1, 2019;
D-109  Jennifer Childress, October 1, 2019, Email Correspondence;
D-110  Susan Glarum, October 1, 2019, Email Correspondence;
D-111  Jeffrey M. Lang, October 1, 2019, Email Correspondence;
D-112  Steve Reinhart, October 1, 2019, Email Correspondence;
D-113  Ron & Christina Friberg, October 1, 2019, Email Correspondence;
D-114  Robert Neugebauer, October 1, 2019, Email Correspondence;
D-115  Jad Davis, October 1, 2019, Email Correspondence;
D-116  Sarah Davis, October 1, 2019, Email Correspondence;
D-117  Timothy V. Ramis, Jordan Ramis, PC, on behalf of Breakers Point, October 1, 2019, Email Correspondence;
D-118  Lynn Epstein, October 1, 2019, Email Correspondence;
D-119  Gregg & Sabrina Barton, October 1, 2019, Email Correspondence;
D-120  Michael Manzulli, October 1, 2019, Email Correspondence;
D-121  Robbie Dodd, October 1, 2019, Email Correspondence;
D-122  Libby & Fred Gast, October 1, 2019, Email Correspondence;
D-123  Brian & Nancy Thompson, October 1, 2019, Email Correspondence;
D-124  Bob Christiaansen, October 1, 2019, Email Correspondence;
D-125  Michael & MaryAnn Orth, October 1, 2019, Email Correspondence;
D-126  Robbie Dodd, October 1, 2019, Email Correspondence;
D-127  Allison J. Reynolds, Stoel Rives, LLP, on behalf of Chapman Point property owners, October 1, 2019, Email Correspondence;
D-128  Caleb Whitmore, October 1, 2019, Email Correspondence;
D-129  John Rippey, October 1, 2019, Letter submitted;
D-130  Friends of the Dunes at Cannon Beach, online petition at change.org, submitted by Dianna Turner & Jeff Harrison, October 1, 2019;
D-131  Compilation of Dianna Turner’s, oral testimony, dated September 12, 14 & 17, and October 1, 2019, with “The Dunes of Cannon Beach” undated presentation, submitted by Dianna Turner, October 1, 2019;
D-132  Karl Marlantes, October 1, 2019, Email Correspondence;
D-133  Evangeline Newton, October 1, 2019, Email Correspondence;
D-134  Pete & Sharon MacWilliams, September 30, 2019, Email Correspondence;
D-135  Tom Williamson, September 24, 2019, Email Correspondence;
D-136  Kent, Maureen, Carly & Maggie Suter, September 26, 2019, Email Correspondence;