Cannon Beach City Council

Staff Report

ZO 18-01 & CP 18-01 PUBLIC HEARING AND 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: September 17, 2019
Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

Public notice for this September 17, 2019 Public Hearing is as follows:
A. Notice was posted at City Hall, Post Offices and other area locations on August 16, 2019;
B. Notice was mailed on August 16, 2019 to surrounding landowners within 100’ of the Oregon Vegetation Line.
C. Notice was sent to the Daily Astorian and Cannon Beach Gazette via a Press Release on August 13, 2019.
D. Notice was sent to the Daily Astorian on August 20, 2019 for publication on August 22, 2019 and September 3, 2019.

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;

“B” Exhibits – Agency Comments
None received as of this writing;

“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;

“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;
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;
SUMMARY & BACKGROUND

Dune Management

Foredune management plans are not required under Goal 18. Cannon Beach is one of nine coastal cities with a Foredune Management Plan; Cannon Beach did not permit foredune grading until 1997. Cannon Beach established a process to allow foredune grading for preservation of ocean views in 1998. This was implemented first at Breakers Point, and later (2001) in the Presidential Streets. In 2016 the City Council directed that the planning documents, policies, and implementation measures for foredune grading be updated.

When grading does occur, it is important to consider the natural cycle of the dunes. The Cannon Beach littoral cell has a net gain of approximately 253,600 yard³ between 1997 and 2016, with areas of erosion and accretion in the cell (Alien, et al., 2017, p.34-35). Anderson and Ruggiero (2015) found decadal oscillations in the position of the shoreline between 1950 and 2010; this is influenced by factors including El Nino/La Nina and Pacific Decadal Oscillation (PDO). Alien predicts that we will continue to see the current pattern for the foreseeable future, until we see a return to a more dominant north-westerly wind and wave pattern. This would help drive sand back to the south, where erosion is happening. One option for foredune management is to accept these cycles and let them manage themselves.

However, if the City is interested in continuing a foredune management plan, the following substantive issues should be considered:

- Vegetation
- Seasonality
- Wildlife
- Beach Access
- Permitting
- Mowing
- Property-Values
- Statewide Planning Goal 18
These issues are addressed in the Exhibits list.

Process

City Council began its process on September 11th with a Science Work Session with comments regarding the process from the City’s land use attorney, Bill Kabeiseman, a presentation by Dr. Sally Hacker on the impact of dune grasses on dune formation and a presentation from Denise Lofman, of the Columbia River Estuary Study Taskforce (CREST) regarding the scientific considerations for foredune management.

Five public hearings were scheduled:

September 12th @ 5:30: first Public Hearing
September 14th @ 9:00: second Public Hearing
September 14th @ 6:00: third Public Hearing
September 17th @ 5:30: fourth Public Hearing
October 7th @ 5:30: fifth and final Public Hearing

On October 7th at 3:00 p.m. Council is scheduled for a site visit tour of the Presidential Streets, Breaker’s Point and other management areas.

Council will consider scheduling additional discussions regarding Foredune Management as part of the October 7th meeting. The schedule for follow up meetings will be published once it is available.

Please note that written public comment will be closed at close of business, 5PM, on Tuesday, October 1, 2019. All public comment should be sent to dick@ci.cannon-beach.or.us or City Hall/Foredune, PO Box 368, Cannon Beach, OR 97110 and postmarked by the time and date specified above.

CRITERIA

The proposed 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: The following policies from the “Sand Dune Construction Policies” section of the Comprehensive Plan may be applicable to the proposed amendments:

1. The City shall prohibit residential development and commercial and industrial buildings on beaches, active foredunes, on other foredunes which are conditionally stable and are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. Permitted uses in these areas shall be those which are of very low intensity (such as raised...
wooden walkways), uses which do not cause the removal of sand or vegetation, and which could be easily removed in the event of ocean flooding, erosion or other hazards.

2. Before a building permit is issued for construction involving the removal of vegetation in areas with sand soils, a satisfactory wind erosion prevention plan will be submitted which provides for temporary and permanent sand stabilization and maintenance of new and existing vegetation. The vegetation program shall return the area to its original level of stability.

3. Removal of vegetation during construction in any sand area shall be kept to the minimum required for building placement or other valid purpose. Removal of vegetation should not occur more than 30 days prior to construction. Permanent revegetation shall be started on the site as soon as practical after construction, final grading or utility placement. Storage of sand or other materials should not suffocate vegetation.

4. Site specific investigations by a registered geologist shall be required prior to issuance of building permits in open sand areas, on hillsides in sand areas regardless of the type of dune or its present stability, and on those conditionally stable dunes not subject to ocean hazard, but which in the view of the Building Official have potential for wind erosion or other damage. Site reports shall be paid for by the developer and the City may submit the reports to State and Federal agencies for evaluation.

5. The developer or party initiating action in sand areas shall be responsible for preventing adverse impacts from wind erosion on adjacent property, City streets, or utilities. Where necessary, the City may cause such impacts to be corrected at the expense of the developer.

6. Foredunes shall be breached only on a temporary basis in an emergency, e.g. fire control, cleaning up oil spills, and alleviating flood hazard. Restoration after breaching shall reestablish, to the maximum extent feasible, the contours and vegetative cover existing on the site prior to the breaching.

7. Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall: a. Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading; b. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100 year flood elevation; c. Identify and set priorities for low and narrow dune areas which need to be built up; d. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities, and e. Prohibit removal of sand from the beachforedune system. Before construction can begin, the foredune grading plan must be adopted as an amendment to the Comprehensive Plan.

8. Wells in dune areas shall not be permitted, in order to prevent the drawdown of groundwater and possible destruction of vegetation.

9. The City, through its Zoning Ordinance, shall regulate sand movement or alteration and vegetation control on City lands not identified in the Dune Classification System (the ADBO Zone).

**Statewide Planning Goals:** Comprehensive Plan and zoning ordinance amendments must not take the City’s planning documents out of compliance with the Oregon’s Statewide Planning Goal’s. Goal 18 is especially applicable to these amendments: *To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.*

Goal 18 also establishes specific requirements for foredune management plans in Implementation Requirement 7 and Guideline H.
Implementation Requirement 7. Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

(a) Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;

(b) Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100-year flood elevation;

(c) Identify and set priorities for low and narrow dune areas which need to be built up;

(d) Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and

(e) Prohibit removal of sand from the beach-foredune system.

Guideline H. Foredune Grading Plans. Plans which allow foredune grading should be based on clear consideration of the fragility and ever-changing nature of the foredune and its importance for protection from flooding and erosion. Foredune grading needs to be planned for on an area-wide basis because the geologic processes of flooding, erosion, sand movement, wind patterns, and littoral drift affect entire stretches of shoreline. Dune grading cannot be carried out effectively on a lot-by-lot basis because of these area-wide processes and the off-site effects of changes to the dunes. Plans should also address in detail the findings specified in Implementation Requirement (1) of this Goal with special emphasis placed on the following:

- Identification of appropriate measures for stabilization of graded areas and areas of deposition, including use of fire-resistant vegetation;
- Avoiding or minimizing grading or deposition which could adversely affect surrounding properties by changing wind, ocean erosion, or flooding patterns;
- Identifying appropriate sites for public and emergency access to the beach.

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 provision that the Council consider not allowing dune grading at all prior to adoption.