

Minutes of the
CANNON BEACH PLANNING COMMISSION

Thursday, March 25, 2010
Council Chambers

Present: Chair, Ron Logan; Vice-Chair, Brandon Ogilvie; Commissioners Larry Peters, John Holden, Mike Benefield, Les Wierson and Herb Florer

Excused: None

Staff: City Planner Rainmar Bartl and Administrative Assistant Brandy Brien

CALL TO ORDER AND APPROVAL OF AGENDA

Chair Logan called the meeting to order at 7:00 p.m.

Motion: Wierson moved to approve the agenda; Ogilvie seconded the motion.

Vote: Peters, Holden, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

CONSENT AGENDA

(1) Consideration of the Minutes of the Planning Commission meeting of February 25, 2010.

Motion: Wierson moved to approve the minutes of February 25, 2010. Holden seconded the motion.

Vote: Peters, Holden, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

ACTION ITEMS

(2) Public Hearing and Consideration of CU 10-01, City of Cannon Beach Request for a Conditional Use Permit to Construct an Emergency Supply Building East of Highway 101 in the Vicinity of the Tolovana Mainline.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest or bias. As ex parte contacts, Commissioners indicated they had visited the site.

Bartl summarized his staff report, noting that the City's zoning ordinance was recently amended to provide for governmental or municipal structures as a conditional use in the Park Management (PK) Zone and staff recommends that, if approved, the approval be effective on April 2, 2010, the date of the ordinance amendment becomes effective.

It was noted that there was no additional correspondence.

Chair Logan opened the public hearing and 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 or other criteria of the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and 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.

Chair Logan called for testimony from the applicant. There was none.

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

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

Chair Logan closed the public hearing.

Motion: Peters moved to approve the conditional use request subject to it being effective on April 2, 2010, the date the ordinance amending the Park Management (PK) Zone becomes effective.

Vote: Peters, Holden, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(3) Public Hearing and Consideration of CU 10-02, Community Presbyterian Church

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest or bias. As ex parte contacts, Commissioners indicated they had visited the site.

Bartl summarized his staff report, noting that the proposed height of the steeple exceeds the maximum building height in the R-2 Zone; however, the proposed height is permitted pursuant to an exemption to the building height for non-habitable areas, Section 17.90.080. He stated that the operation of the chime system requires that it comply with the noise control ordinance. All the relevant criteria have been met and staff recommends approval.

In response to a question from Florer regarding the building height exemption, Bartl directed Florer to page 2 of the staff report and reviewed the standard with regard to uninhabitable areas.

Chair Logan opened the public hearing and 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 or other criteria of the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and 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.

Chair Logan called for testimony from the applicant.

Doug Wood, P.O. Box 774, Cannon Beach, Community Presbyterian Church Representative, Building and Groundskeeper, directed the Commission to a model to provide an illustration of the overall plan. He noted that he agrees with the staff report. However, he noted that the last paragraph on page 2, which indicates that the proposed cross on the west building elevation will be copper clad is in error. The final decision on the material has not been made. The selected material will be part of the presentation to the Design Review Board.

In response to a question from Peters, Wood confirmed that the church had a 25 years tradition of playing chimes and intends to sound chimes generally at noon and 6:00 p.m. and prior to Sunday services. The system became inoperable in the 1990's and intends to restore the chimes using a modern day system.

In response to a question from Peters with regard to complaints of noise associated with the chimes, Wood stated that he has heard comments from individuals who enjoyed listening to the chimes, but had not heard of complaints.

In response to a question from Logan, Wood confirmed that the Church's purpose is to sound the chimes Monday through Saturday rather than denote the time of day, however since the chimes sounded at noon and 6:00 p.m. in

the past, it is the Church's intention to continue to denote the time of day at approximately noon and 6:00 pm. And the program times would be established by the Church, the bells would ring approximately 15 minutes prior to the service times at 9:00 a.m., 10:15 a.m. and 6:45 p.m.

Wood provided sound samples of the chimes and noted the different hymns could be to be played to denote the time of day and announce service times.

Chair Logan called for proponents of the request.

Marlene, Laws, P.O. Box 945, Cannon Beach, stated her support for restoring the chimes and noted that the chimes were an integral part of Cannon Beach.

Bill Bennett, P.O. Box 1340, Cannon Beach, OR, stated his support for this proposal, he concurs with the staff report and provided some history regarding the church, noting that the church was organized in 1930, has been a significant part of the community throughout that time and will be celebrating its 80th anniversary in the fall. The church's plan is to have all construction completed by that time.

Chair Logan called for opponents of the request.

Jan Siebert-Wahrmund, P.O. Box 778, Cannon Beach, OR, stated that she is not necessarily an opponent; however, she wished to pose a question. Logan directed Siebert-Wahrmund to ask the question and perhaps the applicant or staff would respond. Siebert-Wahrmund asked about the new chime system, specifically is the proposal similar to the chimes played before, she recalls tones not necessarily hymns, and what would be the duration of the chimes.

Logan asked if there was a staff response. Bartl provided a response with regard to the materials for the cross noting that consideration for materials used will be part of Design Review Board process. Bartl reviewed the chimes are not a consideration of the conditional use request.

In response to Logan, Bartl confirmed that the chimes must comply with the noise ordinance.

Chair Logan asked if the applicant would like to make additional statements.

In response to the Siebert-Wahrmund's inquiry, Wood stated that, as Pastor Robinson explained to him, the previous chimes and bells played a variety of 14 hymns that were part of a recording system and the duration of the chimes are 2-3 minutes in length.

Chair Logan closed the public hearing.

Motion: Wierson moved to approve the conditional use request. Holden seconded the motion.

Wierson stated that he supports the chimes and noted that he attends church in Portland and the chimes there can only sound on Sundays.

Benefield noted concerns with regard to the applicant's statement, that times are approximate, he understood that the purpose is to denote the time of day. Bartl confirmed, as stated in the staff report, the standard in the noise ordinance. Logan replied that the purpose is to denote the time of day and is listed in the exception of the noise ordinance.

Bartl added that that there are a number of exceptions to the permitted noise level and a chime system in conjunction with a church is one of them. He read the noise exception standard, "sounds made between the hours of nine a.m. and ten p.m. which are made by or in simulation of bells and chimes and whose purpose is to denote the time of day and which do not exceed three minutes in length."

Also in response to Benefield, Bartl replied that the church will have to comply with the above standard.

Logan stated that this application meets all of the relevant criteria except for one. Specifically, in allowing the Monday through Saturday bells and chimes, he agrees that the Sunday chimes and the holiday chimes should be permitted, however he is concerned that on the other days that it does not follow under the denoting the time of day standards, and even if it does, as Bartl indicated, it does not preclude it from meeting the zoning ordinance requirements. Logan continued that this request does not meet the relevant criteria with regard to the use being compatible with the surrounding area, this is in a residential zone and the use must be compatible with the surrounding area. He considers this to not be compatible with a residential zone and would not approve subjecting residents to bells and chimes outside of Sunday and holidays.

Benefield noted a concern with songs other than hymns played to denote the time of day. Bartl referred Benefield to the staff report and the standard in the noise ordinance. Logan stated that, as Bartl read earlier, it is to be a "simulation of chimes".

Wierson noted his frustration with the direction of the discussion. He believes that three minutes a day, at noon and 6:00 p.m. will not be a nuisance, just as the "moo" sound heard throughout the City for tsunami warning system is not a nuisance, which at one time sounded everyday at noon.

In response to a question from Wierson, Logan replied that the issue is that there is a difference of opinion on this issue and if he lived in that area, he would not be pleased with the frequency of the chimes.

Bartl reiterated, in response to Benefield, that as indicated in the ordinance, the sounds must be in the simulation of bells and chimes and songs may not be played.

Holden noted that listening to a hymn would not be denoting the hour.

Vote: Peters, Holden, Benefield, Florer, Wierson and Vice-Chair Ogilvie voted AYE; Logan voted NAY, the vote was 6/1 in favor and the motion passed.

(4) Public Hearing and Consideration of CU 10-04, Breakers Point Homeowners Association Request for a Conditional Use Permit for Foredune Grading in Conformance with the Chapman Beach Management Unit Plan.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Holden excused himself from the matter because he is a home owner in the Chapman Point development located to the north of Breakers Point. No other Commissioner stated a conflict of interest or bias. As ex parte contacts, Commissioners indicated they had visited the site.

Bartl summarized his staff report, noting that it will be done in two phases, the first phase will be implemented at the end of April and the beginning of May of 2010. In the first phase, approximately 8,500 cubic yard of material will be graded and deposited in an area generally southwest of Breakers Point. Bartl stated that in the second phase, approximately 7,210 cubic yards of graded material will be placed in an eroding portion of the west bank of Ecola Creek, down stream from the south end of Larch Street. This material deposition will occur in September of 2010. The proposed conditional use application is for both phases of the dune grading, but only the first phase of deposition. The deposition adjacent tot Ecola Creek requires a separate conditional use permit.

Bartl stated that staff recommends approval subject to a number of conditions.

In response to questions from Logan, Bartl confirmed that the diagram represents the two phases of the area to be graded and filled. The proposed deposition adjacent to Ecola Creek requires a separate conditional use permit for active restoration in the Estuary Zone and as such is not part of this application.

Also in response to a question, Bartl stated the first several times grading was undertaken the replanted area was fertilized. However, it has been found that beach grass is a very hardy and there is no need for fertilizer.

In response to Ogilvie, Bartl reviewed the difference between this proposal for “foredune grading” and the “maintenance dune grading” that has occurred along Ocean Avenue.

It was noted that there was no additional correspondence.

Chair Logan opened the public hearing and 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 or other criteria of the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and 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.

Chair Logan called for testimony from the applicant.

Bruce Francis, on behalf of Breakers Point Home Owners Association (BPHOA), P.O. Box 246, Cannon Beach, noted that Geoscientist Tom Horning is available for questions. He stated that the staff report provides a good summation of the proposed for dune grading.

Francis reviewed the previous dune grading that occurred at Breakers Point. He noted that the previous grading had filled all the low spots and voids in the dunes adjacent to Breakers Point and thus additional deposition areas had to be considered. In the first phase a wedge of graded sand will be placed against the existing west dune face. The location of this deposition area was selected so that ocean views from properties to the east of Ecola Creek are not affected. Its location will also not impact views from the Chapman Point development. A shallow layer of graded material will be placed on the upper beach adjacent to the dune wedge. The second area to accommodate the volume of graded sand is on the west bank of Ecola Creek. This deposition will be part of a separate conditional use application.

Francis concluded by stating that the BPHOA has successfully implemented its previous sand dune grading program and will comply with all the conditions recommended by the staff. He requested that the Commission approve the application.

Chair Logan called for testimony from proponents.

Chair Logan called for testimony from opponents.

Jan Siebert-Wahrmund, P.O. Box 778, Cannon Beach, stated that she is an opponent of dune grading. Siebert-Wahrmund distributed pictures to Commissioners. She stated that in her opinion previous dune grading at Breakers Point has played a large role in the erosion that is occurring at the end of Larch Street. She also believes that the dune grading may have contributed to shoaling in Ecola Creek west of the bridge. Siebert-Wahrmund stated that the material may be mud or silt from the City’s watershed. The material should be analyzed to determine its origin. Siebert-Wahrmund also noted that the lower portion of Ecola Creek is prime salmon habitat. Siebert-Wahrmund concluded by stating the end of Larch Street has never eroded to the extent that is occurring now. She does not want to see salmon sacrificed to accommodate property owners’ ocean views.

John Holden, P.O. Box 457, Cannon Beach, stated that he is appearing as an adjacent property owner. He asked if the 18 inch sand layer to be deposited on the upper beach will be replanted. He also asked if a study had been conducted with regard to how much of the proposed sand deposition on the beach might become windborne and be shifted to the north, onto Chapman Point property.

Jan Siebert-Wahrmund stated that she also wanted an explanation with regard to a concern that the placement of graded sand onto the area that is eroding adjacent to Ecola Creek may further wash sand into the creek. The eroded sand may further impact the problems in the creek.

Bartl replied that with regard to the effect dune grading may have on erosion, Tom Horning may be able to answer that question.

Bartl stated that he would like to visit Ecola Creek with Siebert-Wahrmund to determine the nature of the material that has created shoals in Ecola Creek. He would also try and coordinate such a visit with Tom Horning. With regard to the potential impact of the deposition on the west side of the creek in phase 2, this potential impact will need to be examined as part of that conditional use application. He stated he does not have a definitive answer on what may be causing the effects that Siebert-Wahrmund has described. However, estuarine areas are very dynamic, it is where marine and off-shore forces come into contact with riverine forces. Bartl noted that it is normal for there to be substantial changes in the character of estuarine areas in short periods of time.

In response to Holden, Bartl replied that from analysis of previous dune grading, it is unlikely that newly temporarily unstabilized sand would migrate more than 75 feet to the north. Such a sand migration is well short of the Chapman Point development

Bartl also stated that the sand placed on the upper beach will not be replanted; it is intended to erode away.

Chair Logan asked if the applicant or proponents wished to make additional statements.

Bruce Francis stated that there will be no replanting of the material deposited on the upper beach. He noted that it is fairly evident that the natural process, in this general area, is for sand to migrate from south to north.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside, OR, noted that over the last three decades there have been several large El Nino events and these events have had the effect of transferring sand from the southern portion of the littoral cell to the northern portion of the littoral cell. Breakers Point is at the north end of its littoral cell. This is the reason for the large buildup of sand at Breakers Point. It is unclear why sand has not subsequently migrated south in conjunction with the summer wind and current patterns.

The combination of the large amount of additional sand and the introduction of the non-native European beach grass, which traps sand, has created large foredunes. Prior to the introduction of European beach grass, the sand would have been transported inland by the wind

Horning stated that the proposal to place some of the sand on the beach is to allow storm surges to wash this sand out into the off-shore environment.

Horning explained that the north shore of Ecola Creek, in the vicinity of Larch Street has been eroding since the 1960s and this is a natural and slow process.

With regard to the material in Ecola Creek, Horning stated he is willing to take a look at it to help determine its derivation.

Horning agreed with Bartl that any wind borne graded sand will not migrate as far as Chapman Point.

In response to Benefield, Horning stated that the reason the deposition area is not located further to the south is so that it will not block ocean views from properties on the east side of Ecola Creek.

Wierson stated that the sand is naturally moving to the north and it cannot be stopped.

Horning added that the changing climate has resulted in stronger storm waves and this may in part explain the erosion.

Chair Logan closed the public hearing.

Motion: Peters moved to approve the conditional use request, with the conditions recommended by the staff. Wierson seconded the motion.

Vote: Peters, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

Holden returned to the dais.

(5) Public Hearing and Consideration of CU 10-03, Nordquist Request for a Conditional Use Permit to Expand an Existing Single-Family Dwelling.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest or bias. As ex parte contacts, Commissioners indicated they had visited the site.

Bartl summarized his staff report, noting that generally the City discourages single-family dwellings in the C-1 Zone. However, at this location, adjacent to the Highway 101 off-ramp at Tolovana, a single family dwelling is preferred because it generates substantially less traffic than any type of commercial use and minimizing traffic generation at this location is important for traffic safety. He noted the letter from ODOT in support of the proposal. He concluded by stating that the relevant criteria are met and that he recommends approval.

It was noted that there was no additional correspondence.

Chair Logan opened the public hearing and 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 or other criteria of the Comprehensive Plan or Municipal Code which the person testifying believes to apply to the decision; failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and 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.

Chair Logan called for testimony from the applicant.

Van Nordquist, P.O.Box 105, Tolovana Park, representing his wife, stated that ODOT has moved the stop sign approximately 40 feet which will allow the driveway to be expanded. He entered into the record a letter from Escape Lodging in support of this request. He thanked the Commission and asked that the request be approved.

Chair Logan called for testimony from proponents. There was none.

Chair Logan called for testimony from opponents. There was none.

Chair Logan asked if there was any staff response. There was none.

Chair Logan closed the public hearing.

Motion: Wierson moved to approve the conditional use request. Peters seconded the motion.

Vote: Peters, Holden, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(6) Authorization for the Chair to Sign the Appropriate Orders

Motion: Peters moved to authorize the Chair to sign the appropriate orders. Holden seconded the motion.

Vote: Peters, Holden, Benefield, Florer, Wierson, Vice-Chair Ogilvie and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(7) Ongoing Planning Items

Bartl reported that the conditional use permit for the proposed pedestrian trail has been appealed to the Land Use Board of Appeals.

(8) Good of the Order

There was none.

ADJOURNMENT

The meeting adjourned at 8:45 p.m.

Administrative Assistant Brandy Brien