Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, January 23, 2014

Present: Chair Brandon Ogilvie; Vice Chair Mark Jacobsen; Commissioners, Joseph Bernt, Herb Florer, Bob Lundy, and Larry Marshall

Excused: None

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER AND APPROVAL OF AGENDA

Chair Ogilvie called the meeting to order at 6:02 p.m.

Motion: Lundy moved to approve the agenda; Florer seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(1) Welcome New Planning Commissioner, Joseph Bernt

Ogilvie introduced Mr. Bernt. The Commissioners welcomed Bernt to the Planning Commission.

CONSENT AGENDA

(2) Election of the Planning Commission Chair and Vice-Chair for 2014

Motion: Lundy moved to nominate Ogilvie for Chair; Marshall seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, and Lundy voted AYE, Ogilvie abstained; the vote was 5/0 in favor and the motion passed unanimously.

Motion: Marshall moved to close the nominations; Lundy seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, and Lundy voted AYE, Ogilvie abstained; the vote was 5/0 in favor and the motion passed unanimously.

Motion: Lundy moved to appoint Ogilvie as Chair; Marshall seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, and Lundy voted AYE, Ogilvie abstained; the vote was 5/0 in favor and the motion passed unanimously.

Motion: Florer moved to nominate Jacobsen as Vice-Chair; Marshall seconded the motion.

Jacobsen stated that his schedule will be changing and he may be unable to attend every meeting this year. After no further nominations, Jacobsen stated that he is willing to act as Vice-Chair.

Vote: Marshall, Bernt, Florer, Lundy, and Ogilvie voted AYE, Jacobsen abstained; the vote was 5/0 in favor and the motion passed unanimously.

Motion: Marshall moved to close the nominations; Lundy seconded the motion.

Vote: Marshall, Bernt, Florer, Lundy, and Ogilvie voted AYE, Jacobsen abstained; the vote was 5/0 in favor and the motion passed unanimously.

Motion: Florer moved to appoint Ogilvie as Chair; Marshall seconded the motion.

Vote: Marshall, Bernt, Florer, Lundy, and Ogilvie voted AYE, Jacobsen abstained; the vote was 5/0 in favor and the motion passed unanimously.

(3) Consideration of the Minutes of the Planning Commission Meeting of December 12, 2013

Motion: Florer moved to approve the minutes as presented; Vice-Chair Jacobsen seconded the motion.

Vote: Marshall, Florer, Lundy, and Chair Ogilvie voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Commissioners Bernt and Jacobsen abstained as they were not present at the December 12, 2013 meeting.

ACTION ITEMS

(4) Public Hearing and Consideration of CU 14-01, Tareen/Filgas Request for a Conditional Use Permit to Authorize Foredune Grading for View Enhancement, between Jackson Street and a Point About 50 Feet South of Jackson Street, West of Ocean Avenue

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.42.060 Oceanfront Management Overlay (OM) Zone, Specific standards, Foredune grading.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside OR 97138, on behalf of the property owners, stated that he is available for any questions. Lundy noted correspondence from the Army Corps of Engineers, pertaining to the Daniels conditional use application, requesting that native grass, and not European beach grass, be planted. Horning stated that for this conditional use application and for the Daniels application, the sand will be moved to the west flank of the dune, not into the intertidal zone, and therefore removing if from the Army Corps of Engineers jurisdiction. This way European grass may be planted, as it does a better job of stabilizing the dune.

Chair Ogilvie called for proponents of the request.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, noted concerns with not placing the sand into the intertidal zone, as this will increase sand dune height rapidly, especially as more applications like these are presented to the Commission. He believes it is a small oversight on part of the Army Corps of Engineers. European beach grass was brought in as American dune grass became harder to come by. He believes European beach grass has been

made indigenous by the amount of grass planted in the County and for the amount of time it has been in the system.
Chair Ogilvie called for opponents of the request. There were none.

Chair Ogilvie asked if there was staff response. There was none.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

In response to a question from Marshall, Barnes stated that the dune grading is performed at the applicant's cost and the cost to the City is administrative time, covered by the permit application fee.

Motion: Lundy moved to approve the conditional use permit, subject to the recommended conditions; Bernt seconded the motion.

The Commissioners discussed concerns with the current Comprehensive Plan Background Report and Appendices, suggesting a more comprehensive approach to sand management. Barnes stated that the City Council has taken into consideration the concerns of staff and the Commission, and has directed staff to develop some "house keeping" amendments to address those concerns.

The Commissioners discussed concerns regarding the subjective criteria being looked at with these types of applications.

Vote: Marshall, Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(5) Public Hearing and Consideration of CU 14-02, Daniels Request for Revisions to a Conditional Use Permit Granted on February 28, 2013, to Authorize Foredune Grading for View Enhancement

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.42.060 Oceanfront Management Overlay (OM) Zone, Specific standards, Foredune grading.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Florer stated that he knows Burmeister-Brown, one of the property owners, however, it should not effect his decision.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report.

Chair Ogilvie asked if there was additional correspondence. Barnes noted additional correspondence given to the Commissioners this evening, and noted that the applicant was provided with the correspondence as well.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside OR 97138, on behalf of the property owners, noted that the only change from the perviously approved conditional use permit is the placement of the sand. The sand will be placed on the western face of the foredune. He noted that there is currently room for the sand to be added, however, this may be the last time. In response to a question from Chair Ogilvie, regarding an email received from Phil and Kathi Rees, Horning asked that the email be read into the record. Chair Ogilvie read the email into the record.

Horning responded to the email stating the all the work has been completed in front of the Daniels property, and that the additional work needing to be completed is for the properties to the south. Daniels name is just on the application.

Chair Ogilvie called for proponents of the request.

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

Chair Ogilvie asked if there was staff response. There were none.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Florer moved to approve the conditional use permit, subject to the recommended conditions; Vice-Chair Jacobsen seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(6) Public Hearing and Consideration of ZO 14-01, City of Cannon Beach Request for Zoning Ordinance Text Amendments to Chapter 17.44, Design Review Procedures and Criteria; and Chapter 17.90, General Requirements and Regulations, to Address Exterior Lighting

Chair Ogilvie stated that this is a legislative matter. No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest.

Barnes summarized his staff report, noting that the Design Review Board discussed expanding DRB authority to review exterior lighting plans for single-family residential structures. DRB was unable to meet at their scheduled January meeting, as they did not have a quorum. He suggested continuing the public hearing to the February 27, 2014 meeting, if they wish to make a decision based on DRB's complete recommendations. Barnes stated that there will be no retro-activity to this ordinance, anything already permitted or completed will be "grandfathered in". He address concerns regarding the previously approved Cannon Beach Church steeple lighting. He noted that DRB works in highly subjective criteria. The application was approved on September 20, 2012 and built to plan. Regarding additional concerns noted about lighting used for safety and security, Barnes stated that safety and security lighting is allowed. The intent of the ordinance is to avoid up-cast lighting into the sky, that is not used for security/safety purposes.

Chair Ogilvie asked if there was additional correspondence. Barnes noted the additional correspondence provided to the Commissioners this evening.

Chair Ogilvie opened the public hearing and stated that the the pertinent criteria to be considered are noted in the staff reports and listed on the criteria sheets next to the west door; Testimony, arguments and evidence must be directed toward those criteria or other criteria in 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 maker and the parties an opportunity to respond to the issue precludes appeal based on that issue; 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 Ogilvie asked if the applicant wished to make a presentation. Barnes noted City is applicant. No presentation.

Chair Ogilvie called for proponents of the request.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, stated he is a proponent, however he does have concerns regarding existing lighting at Breaker's Point. He listed his concerns and the Commissioners discussed.

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

Glen Boring, PO Box 987, Cannon Beach OR 97110, stated that he is a opponent and a proponent. He asked the Commissioners to think of the unintended consequences of adopting the ordinance amendments. He noted current lighting in town that would have possibly not been approved had these amendments been part of the code at that time. He noted the character and beauty he feels the current lighting, such as the lighted church steeple, gives Cannon Beach.

Chair Ogilvie asked if there was staff response. Barnes described the DRB's decision-making process.

In response to Chair Ogilvie, Barnes recommended that the Commission continue the public hearing and continue consideration until that DRB has had a chance to finalize their recommendations.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Motion: Florer moved to continue the public hearing and discussion to the February 27, 2014 meeting; Marshall seconded the motion.

Vote: Marshall, Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

The Commissioners discussed wording of the ordinance and adding specific criteria, such as how many lumens and what percentage of illumination, to make the code less subjective. In response to a statement from Barnes on the DRB wanting all exterior lighting to come before the Board, including residential, Florer noted that he feels that residential should not fall under the DRB's purview. The Commissioners discussed subjective and objective criteria. Jacobsen commented that the criteria should remain subjective and left up to the DRB and the community to say what is architecturally important. In response to a discussion regarding residential lighting, Barnes clarified the language, stating that he will make some minor changes to make more clear and email the Commissioners the revised language.

Marshall excused himself from the meeting.

The public hearing and further consideration will be continued to the February 27, 2014 meeting, following the February 20, 2014 Design Review Board meeting.

(7) Public Hearing and Consideration of ZO 14-02, City of Cannon Beach Request for Zoning Ordinance Text Amendments to Chapter 17.70, Tree Removal, Section 17.70.017 Permit Administration, Section 17.70.030.O, Additional Requirements, and General Wording Maintenance

Chair Ogilvie stated that this is a legislative matter. No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest.

Barnes summarized his staff report noting that most of the amendments are general "housekeeping" issues, with the exception of the addition of subsection "O.". He explained the current tree removal application process and how the proposed amendments will assist the City in reviewing tree removal requests. He clarified to the Commissioners that the cost of hiring outside technical assistance would be paid by the City. The Commissioners discussed trees located in the City right-of-way. Lundy suggested adding language to address property owners filing for a tree removal permit for trees not affecting their property.

Chair Ogilvie asked if there was additional correspondence. Barnes noted the additional correspondence provided to the Commissioners this evening.

Chair Ogilvie opened the public hearing and stated that the the pertinent criteria to be considered are noted in the staff reports and listed on the criteria sheets next to the west door; Testimony, arguments and evidence must be directed toward those criteria or other criteria in 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 maker and the parties an opportunity to respond to the issue precludes appeal based on that issue; 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 Ogilvie asked if the applicant wished to make a presentation. Barnes stated that the City is the applicant.

Chair Ogilvie called for proponents of the request.

Glen Borning, PO Box 987, Cannon Beach OR 97110, stated that he appreciates the "housekeeping" updates and the direction the City is taking. He thanked the Commission for the work that has been done.

Jan Siebert-Warhmund, PO Box 778, Cannon Beach OR 97110, also thanked the Commission for their work. She stated that she supports the draft amendments, and believes it will be very helpful.

Chair Ogilvie called for opponents of the request.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, stated that he was opposed to the addition of subsection "O.". He has concerns with the language not stating the cost will be to the City, and also with the probability of one expert's opinion differing from the other's. Who will determine which expert is correct?

Luke Colvin, owner of Arbor Care Inc. and ISA certified arborist, 86946 Youngs River Road, Astoria OR 97103, stated that his is mostly in favor of the amendments. He does have concerns with opposing opinions of experts. He asked what the process will be if one expert says something different than the other and who will make the determination of which is correct. He questioned where the liability would end up, on the arborist or the City. He also asked for clarification on whether or not every application will be reviewed by a second arborist.

Chair Ogilvie asked if there was staff response. Barnes stated that language to clarify who pays for the secondary arborist can be added to the draft ordinance. Regarding the possibility one one arborist report differing from another, he stated that the process already exists for appeal to the Planning Commission if parties disagree with the tree removal application outcome. Regarding liability, Barnes noted that the City already has potential liability since the City regulates tree removal.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Jacobsen moved to recommend approval of ZO 14-02 to the City Council, with the amendment to subsection "O." to read: "The City, at no cost to the property owner or their designated representative, may seek independent expert opinion when reviewing an ISA Tree Hazard Evaluation; or when reviewing any request to remove a diseased, damaged, dying, or hazardous tree."; Florer seconded the motion.

Motion: Bernt moved to recommend approval of ZO 14-02 to the City Council, with the amendment to subsection "O." to read: "On rare occasions, when an ISA Tree Hazard Evaluation is not entirely clear during a city review of any request of remove a diseased, damaged dying, or hazardous tree, the city may seek independent expert opinion. Any appeal of the City's decision will be without cost to the applicant, and the city will pay the cost of hiring an independent expert."; there was no second and the motion failed.

Florer noted the recommendation from Lundy to add "adjacent to the applicants property" to the language in 17.70.017.B, Permit administration. The Commissioners discussed this further and determined that if a tree is hazardous, diseased, or dying, it should not be limited to only adjacent property owners to apply for a tree removal permit.

Bernt stated his concerns and a lengthy discussion ensued.

Vote: Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(8) Authorization of the Chair to Sign the Appropriate Orders

Motion: Lundy moved to authorize the Chair to sign the appropriate orders; Vice-Chair Jacobsen seconded the motion.

Vote: Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(9) Ongoing Planning Items

Barnes revisited the meeting time being changed to 6:00 p.m.. It was determined to keep this meeting time.

Barnes stated that the FEMA map update will be added to the February 27, 2014 meeting agenda.

(10) Good of the Order

There was none.

ADJOURNMENT

The meeting adjourned at 8:18 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, February 27, 2014

Present: Chair Brandon Ogilvie; Vice Chair Mark Jacobsen; Commissioners, Herb Florer, Bob Lundy, Larry Marshall, and Janet Patrick

Excused: Commissioner Joseph Bernt

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER AND APPROVAL OF AGENDA

Chair Ogilvie called the meeting to order at 6:00 p.m.

Ogilvie introduced new Commissioner, Janet Patrick. The Commissioners welcomed Patrick to the Planning Commission.

Motion: Vice-Chair Jacobsen moved to approve the agenda; Marshall seconded the motion.

Vote: Patrick, Marshall, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

ACTION ITEMS

(1) Consideration of the Minutes of the Planning Commission Meeting of January 23, 2014

Motion: Vice-Chair Jacobsen moved to approve the minutes as presented; Lundy seconded the motion.

Vote: Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Commissioner Marshall abstained. Commissioner Patrick abstained as she was not present at the January 23, 2014 meeting.

(2) Public Hearing and Consideration of V 14-01, Tolovana Architects Request for a Variance to Reduce the Front Yard Setback in Conjunction With the Addition of a Second Story to an Existing Dwelling, 280 Tanana Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Vice-Chair Jacobsen noted that he was a tenant of Brad Malsin's company in Portland and did a small, 10-20 hour consulting job four years ago for Malsin. He also reminded the Commissioners that he worked with Vonada for several years and that Vonada had drafted a letter recommending Jacobsen be appointed to the Planning Commission. He does not feel that any of these circumstances will bias his decision.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report. Barnes noted the additional materials provided at the dais. In response to a comment by Vice-Chair Jacobsen regarding the criteria for granting a variance, Barnes stated that the Commission will have to determine whether or not a hardship has been met. In response to a question from Vice-chair Jacobsen regarding nonconforming structures, Barnes stated that the City has setback reductions and variances as a way to provide relief when the application meets the criteria. Vice-Chair Jacobsen cited the non-conforming criteria, section c, building coverage does not exceed 40%, and noted that this application has a lot coverage calculation of 48%. In response to a question as to whether or not an additional variance should be sought, Barnes said he believes the setback variance should take care of the nonconforming portion.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

David Vonada, Tolovana Architects, PO Box 648 Tolovana Park OR, 97145, hired by the Malsin's to design the remodel of their home and obtain a variance. Vonada distributed a site plan with the section of the house requiring a variance highlighted. He stated that the historical cabin dates back to the 1930's. He noted that, in order to conform to the 15 foot setback, they would need to tear down the porch and just under four feet of the front of the cabin. In response to a question from Vice-Chair Jacobsen, Vonada confirmed that the second floor addition does not extend into the nonconforming area of the dwelling. Vonada pointed out that the second floor construction will be in full compliance of the setback regulations. The plans are to add an additional four feet to the second floor and extend the existing ridge line by four feet.

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

Chair Ogilvie called for opponents of the request.

Hans Lindstrom, 239 W Tanana, stated that his biggest concern is how the second floor construction will effect his view. He referenced the second page of the staff report, noting section 17.84.030.A.3, "That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the near vicinity." Lindstrom passed out photos to the Commissioners, superimposing the addition on to the existing dwelling, to show how the construction would effect the neighboring property views. He requested that the record be kept open until further information can be collected and discussed.

Chair Ogilvie asked if there was staff response. In response to discussion, Barnes explained how floor area and lot coverage are calculated, noting that the floor area ratio will remain the same, because the footprint of the building will remain the same with the second floor addition. Barnes clarified the options for keeping the record open.

Commissioner Bernt arrived at 6:41 p.m.

In response to a question from Lundy, Barnes explained that it is the burden of the applicant to show that they comply with all criteria, however, it is not an ordinance requirement to perform a view study.

Chair Ogilvie asked if the applicant wished to make an additional statement.

Vonada reinforced his point, that the variance being sought is for the existing portion of the cabin, and that the views impacted by the addition to the second story is a separate issue. In response to a question from Ogilvie, Vonada stated that Lindstrom's photos are a fair assessment of the second story addition. As a result of discussion, Vice-Chair Jacobsen voiced concerns that the criteria of "materially injurious to properties" may be considered if a nonconforming variance is required.

Motion: Florer moved to leave the public hearing open for written testimony until one week from Friday, February 28, 2014 morning for opponents, followed by one additional week for applicants and proponents; Lundy seconded the motion.

Barnes stated that his understanding of the motion is that the hearing is closed for any more oral testimony.

Vote: Patrick, Bernt, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE, Marshall voted NAY; the vote was 6/1 in favor and the motion passed.

(3) Public Hearing and Consideration of V 14-02, Tolovana Architects Request for a Variance to Reduce the Side Yard Setback in Conjunction With the Reconstruction of an Existing Dwelling, 398 7th Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Vice-Chair Jacobsen reminded the Commissioners that he worked with Vonada for several years and that Vonada had drafted a letter recommending Jacobsen be appointed to the Planning Commission, however, he will be able to make an unbiased decision. Chair-Ogilive noted that he has done worked on this dwelling, but does not believe it would bias his decision.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report. In response to questions from Vice-Chair Jacobsen regarding non-conforming use, Barnes stated that he will check with the City's land use attorney to verify wether or not the non-conforming use section of the municipal code is applicable.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

David Vonada, Tolovana Architects, PO Box 648 Tolovana Park OR, 97145, representing the property owners, distributed an updated site plan. He noted the dotted lines indicate the existing house to be demolished and the large dash line indicating the buildable area. He noted that in order to comply with setback criteria, the building would have to be rebuilt in a long and narrow footprint. This would effect the view of the home directly to the west. The application is to replace the house within the existing footprint.

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

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

Chair Ogilvie asked if there was staff response. There was none.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Lundy moved to approve the conditional use as presented; Patrick seconded the motion.

Vice-Chair Jacobsen stated the same concerns regarding the non-conforming structure, as the previous variance application. Barnes stated that, since the existing non-conforming structure will be demolished and a new non-conforming structure will be built, approving the variance would approve the non-conforming structure. The Commissioners had a discussion regarding lot size and the need for variances to address building restrictions.

Vote: Patrick, Bernt, Marshall, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(4) Public Hearing and Consideration of SR 14-01, Bill Boone Request for a Reduction of the West Side Yard and Rear Yard Setbacks, 248 Gulcana Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report. He noted that a lot line adjustment was also applied for and will be approved administratively, pending the setback reduction request approval. In response to Florer, Barnes confirmed that the neighboring property owner has signed the application for the lot line adjustment.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Bill Boone, 37564 Highway 26, Seaside OR 97138, applicant, representing the property owners, handed out additional comments on the application. He gave a short presentation. In response to a question from Bernt regarding the relocation of the entire building, Boone explained that it would not be feasible, due to the fact that there would be no foundation to hold the walls. He explained that the existing concrete slab would not be able to be moved.

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

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

Chair Ogilvie asked if there was staff response. In response to concerns from Marshall regarding parking, Barnes stated that the City does have off-street parking requirements, however, the City does not require enclosed parking.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Florer moved to approve the conditional use permit; Vice-Chair Jacobsen seconded the motion.

Vote: Patrick, Marshall, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE, Bernt voted NAY; the vote was 6/1 in favor and the motion passed.

(5) Public Hearing and Consideration of CU 14-03, City of Cannon Beach Request for a Conditional Use Permit to Remove an Existing Fence and Construct a Multi-use Trail, Along the Existing Fence Line, Between First Street and Spruce Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.36.030.H, Institutional (IN) Zone, Conditional uses permitted, Section 17.80.110, Conditional Uses, Overall use standards, and Section 17.80.260, Specific use standards, Trails.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Lundy declared that he was approached by a opponent of the request that had expressed concern with a paved path being placed too close to Ecola Creek, he also noted that he was present at a recent Water Shed Council meeting where this was discussed. He feels that neither of those would influence his decision, and he remains unbiased.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting that the Design Review Board will discuss this item at their March 20, 2014 meeting. In response to Florer, Barnes noted that approving the conditional use application would not preclude altering the trail in the future. The location of the trail could change based on the master plan for the site, which is currently being discussed. He also noted that the City is currently seeking a grant for the funds to purchase the southern portion of the old Cannon Beach Elementary school property.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Dan Grassick, Public Works Director for the City of Cannon Beach gave a presentation. He noted that is the grant to purchase the southern property is not granted, the trail may be moved further away from the edge of the creek bank. He noted that the request is for a 6-8 foot wide pathway. He noted that the application is for an asphalt trail, so if, after the master plan is complete, the City determines to pave the trail, that could be done without an additional permit. Grassick noted the proposed timeline. In response to a question from Marshall, Grassick noted that the trail would not have access to the creek bank, however, there is an existing social trail that goes to the beach. Grassick discussed the placement of additional crosswalks. Grassick also discussed the design features of the trail in detail. Lundy stated he was in opposition of a hard surface trail. In response to marshall, Grassick noted ADA requirements.

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

Chair Ogilvie called for opponents of the request.

Jan Siebert Wahrmund, PO Box 778, Cannon Beach OR 97110, stated she was in favor of an interim trail, however, was under the impression that the City was asking for a conceptual trail with no width or asphalt mentioned at this time.

Chair Ogilvie asked if there was staff response. Barnes noted two site features that were not previously noted, that the site has cultural and historical significant, and evidence of subsurface artifacts. He also noted that Jan Siebert Wahrmund's concerns could be addressed directly with a condition on the approval, or the design details could be left for the Design Review Board to address.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Florer moved to approve the conditional use permit with the condition that the trail will not exceed eight feet in width, and will not be paved with asphalt; Bernt seconded the motion.

In response to concerns from Vice-Chair Jacobsen, the Commissioners discussed the condition. Barnes clarified, if the Design Review Board decision does not include a condition regarding pavement, and plans change for the trail, the conditional use would have to be brought back for to the Planning Commission for review.

Vote: Patrick, Bernt, Marshall, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(6) Continuation of Public Hearing and Consideration of ZO 14-01, City of Cannon Beach Request for Zoning Ordinance Text Amendments to Chapter 17.44, Design Review Procedures and Criteria; and Chapter 17.90, General Requirements and Regulations, to Address Exterior Lighting

Barnes summarized his staff report, reviewing the Design Review Board recommendations. He distributed a table converting watts to lumens for clarification. Barnes suggested the Commissioners postpone a decision to their March 27, 1014 meeting, given the time.

Chair Ogilvie called for public testimony and stated that the pertinent criteria to be considered regarding this request are in the staff report and criteria sheets next to the west door; testimony, arguments and evidence must be directed toward those criteria; 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 Ogilvie stated that he was not comfortable adding residential criteria to the Design Review Board's purview.

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

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

Chair Ogilvie asked if there was staff summary or response. There was none.

Motion: Marshall moved to recommend the adoption of the zoning ordinance text amendment with "Residential Exterior Lighting - Alternative B" to the City Council; Florer seconded the motion.

After further discussion and concern, it was determined that additional time will be needed to make a decision.

Florer withdrew his second. Without a second the motion failed.

The Commission will continue discussion at their March 27, 2014 meeting.

(7) Authorization of the Chair to Sign the Appropriate Orders

Motion: Florer moved to authorize the Chair to sign the appropriate orders; Marshall seconded the motion.

Vote: Patrick, Bernt, Marshall, Florer, Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

Barnes noted the monthly tree removal report.

(9) Good of the Order

There was none.

ADJOURNMENT

The meeting adjourned at 8:56 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, March 27, 2014

Present: Chair Brandon Ogilvie; Vice Chair Mark Jacobsen; Commissioners, Joseph Bernt, Herb Florer, Bob Lundy, and Janet Patrick

Excused: Commissioner Larry Marshall

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER AND APPROVAL OF AGENDA

Chair Ogilvie called the meeting to order at 6:00 p.m.

Motion: Lundy moved to approve the agenda; Bernt seconded the motion.

Vote: Patrick, Bernt, Florer, Vice-Chair Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

ACTION ITEMS

(1) Consideration of the Minutes of the Planning Commission Meeting of February 27, 2014

Motion: Lundy moved to approve the minutes as presented; Bernt seconded the motion.

Vote: Patrick, Florer, Vice-Chair Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Commissioner Bernt abstained as he was not present at the February 27, 2014 meeting.

(2) Consideration of V 14-01, Tolovana Architects Request for a Variance to Reduce the Front Yard Setback in Conjunction With the Addition of a Second Story to an Existing Dwelling, 280 Tanana Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting.

Barnes summarized his staff report, reviewing the Commission's decision at the February meeting. He noted that the public hearing is now closed, unless the Commission chooses to re-open it. He stated that discussion between the Commissioners and himself will not require the re-opening of the public hearing. He reviewed the written correspondence received by the opponents and the applicants/proponents. Barnes addressed Commissioner Jacobsen's question from the prior meeting, regarding non-conforming use. He noted that there are three ways to deal with encroachments in the setback: setback reduction, variance, and non-conforming use expansion; the latter not requiring Planning Commission approval.

Barnes and the Commissioners discussed the ridge height maximums and the pitched roof height.

Motion: Vice-Chair Jacobsen moved to approve the variance request to reduce the front yard setback in conjunction with the addition of a second story to the existing second story; there was no second. The motion failed.

Motion: Lundy moved to deny the proposed variance; Bernt seconded the motion.

Bernt and Lundy noted the reasons for their decision.

Vice-Chair Jacobsen, noted that the argument against allowing the variance is based on the non-conforming use, and concerns with the view. He also noted that, if the structure was demolished and rebuilt it could impede on views even more than the proposal before the Planning Commission.

Florer acknowledged Vice-Chair Jacobsen's concerns. He noted that the height does come into play, and evidence shows that the proposed addition might be materially injurious to property in the vicinity. He also noted that the applicant has failed to demonstrate an unnecessary hardship.

Vote: Patrick, Bernt, Florer, Lundy, and Chair Ogilvie voted AYE; Vice-Chair Jacobsen voted NAY; the vote was 5/1 in favor and the motion passed.

Barnes noted the decision can be appealed to the City Council within 20 days.

(3) Public Hearing and Consideration of V 14-03, Reid Isaacson and Otto Gaither Request for a Variance to Maximum Building Height in Conjunction with the Construction of a New Duplex, Located on a Vacant Lot on E. 6th Street

Chair Ogilvie stepped down, as he is in the notification area.

Vice-Chair Jacobsen introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared. Lundy noted he lives close to this property and has spoken to several neighbors. He also delivered an email note from another neighbor, opposing the variance.

Barnes summarized his staff report, reviewing how building height is calculated and referencing the corresponding exhibits attached to the staff report. He stated that duplexes require Design Review Board approval as well, and this application will be before the Board at their April 17, 2014 meeting. He noted additional correspondence presented.

Vice-Chair Jacobsen 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; 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.

Vice-Chair Jacobsen asked if the applicant wished to make a presentation.

Reid Isaacson 14712 NE 3rd Ave, Vancouver WA 98685, summarized his application noting that a large berm exists on the front portion of the lot. In order to comply with the maximum building height requirement, the berm would need to be cut through and large, engineered, retaining walls will need to be added. He believes these retaining walls would be "unsightly" do to the required size to allow access to the property. He noted the elevation from the front property line would be 17 feet. Due to the sloping lot, adding the daylight basement would increase the building height to nonconformance.

In response to Lundy asking for calculations or projections on the maximum roof height in relation to the neighboring homes, Isaacson stated the a surveyor would need to be hired to shoot the elevations, however, he does not believe it would vary hugely from existing neighboring homes.

Vice-Chair Jacobsen called for proponents of the request. There were none.

Vice-Chair Jacobsen called for opponents of the request.

Earl Palmeter, 588 Cherry Street, neighboring property owner, stated that such a large structure is "inappropriate" for a small neighborhood, and out of character. He would like the Commissioners to reconsider if the duplex would be appropriate on a dead end street with limited space for parking.

Steven Sinkler, 603 E 6th Street, adjacent property owner to the west of the proposed duplex. He concurs with Palmeter, that this structure feels out of scale for the neighborhood. He noted the only hardship the applicant is presenting is the retaining walls, that will need to be built regardless of the building height. Regarding esthetics, there are other concrete retaining walls in the neighborhood. Regarding granting the variance and the impact on public heath, Sinkler stated that the duplex would impact sunlight to their property and also require the removal of trees that will be impacted by removal of the berm.

Douglas Wood, PO Box 774 Cannon Beach, property owner at 648 E 6th Street, stated that his home is three stories with a walkout basement that does meet the requirements. He discussed the slope of the lot and how it does not flatten, as shown in the exhibit. He also discussed the building height and how it would actually increase if it was on a flat lot, therefore the applicants argument is invalid. He concluded that the purchaser bought the property based on the existing zoning criteria.

Jan Seibert-Wahrumund PO Box 778, Cannon Beach, believes the structure is not to scale with the neighborhood and believes the variance request should be denied.

Vice-Chair Jacobsen asked if there was staff response. Barnes added that sliding the building back further on the lot, as suggested by the opponents of the request, would not solve the height problem, unless the topography changes.

Vice-Chair Jacobsen asked if the applicant wished to make an additional statement.

Isaacson noted the position of the structure on the lot. He stated that if it was being built on a flat lot, a daylight basement would not be needed, therefore if would meet building height requirements. He noted that the retaining wall height will have to be approximately 13 feet if the variance is denied and the proposed plans are not approved. He addressed the opponents concerns regarding the square footage of the duplex, noting that approximately 1200 square feet are being calculated from the daylight basement, and 500 square feet from the garage.

Vice-Chair Jacobsen closed the public hearing.

The Commissioners discussed the application and concluded that not all the criteria have been met.

Motion: Florer moved to deny the proposed variance; Bernt seconded the motion.

Vote: Patrick, Bernt, Florer, Vice-Chair Jacobsen, and Lundy, voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(4) Continuation of Public Hearing and Consideration of ZO 14-01, City of Cannon Beach Request for Zoning Ordinance Text Amendments to Chapter 17.44, Design Review Procedures and Criteria; and Chapter 17.90, General Requirements and Regulations, to Address Exterior Lighting

Barnes summarized his staff report, noting two alternative text amendments regarding residential lighting. He summarized the Design Review Board (DRB)'s discussion and suggestions. In response to a question from Bernt regarding the DRB being involved with residential lighting, Barnes stated that the Council has concerns regarding single-family dwellings as well. In response to a question from Patrick, Barnes stated that the residential provisions may potentially increase the Boards workload. A lengthy discussion of clear and objective standards took place. The Commission discussed enforcement of these standards. In response to Bernt, Barnes confirmed that all existing lighting will be grandfathered in. Florer noted other cities are using their exterior lighting ordinances to help protect endangered species.

Chair Ogilvie 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 Ogilvie called for proponents of the request.

Hank Johnson, 4008 S. Hemlock, Cannon Beach, stated that he was on the Design Review Board for two terms and does not feel like it would be a burden for the Board to look at all new construction to review exterior lighting. He noted that most conflict between neighbors can be handled between the two, however, if there are issues with lighting that can not be settled, the City will have the authority to enforce the lighting based on the standards put forth in the ordinance.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach, supports the exterior lighting ordinance and feels that it will help honor endangered species and neighbors.

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

Chair Ogilvie asked if there was staff response.

Chair Ogilvie closed the public hearing.

Bernt led a discussion regarding lumens. Patrick voiced concerns with lower lumens causing safety issues.

Motion: Florer moved to recommend the approval of ZO 14-01 to the City Council; with the recommendation of "alternative B" in regards to residential lighting, with two modifications: exception #6 still must be within lumen requirements and "when in use" be added to (b) under 7. Exempt Lighting; there was no second and the motion failed.

The Commission discussed specifics to be added to the ordinance.

Motion: Florer moved to recommend City Council adoption with changes to section 17.44.090.M, combining (1) and (2), and making (5) point to the tables; and altering the overall framework to use the model ordinance's lumen tables; Lundy seconded the motion.

Vote: Patrick, Bernt, Florer, Vice-Chair Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(5) Authorization of the Chair to Sign the Appropriate Orders

Motion: Lundy moved to authorize the Chair to sign the appropriate orders; Florer seconded the motion.

Vote: Patrick, Bernt, Florer, Vice-Chair Jacobsen, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(6) Ongoing Planning Items

Barnes stated that there are not applications for the April meeting, therefore the meeting has been canceled.

(7) Good of the Order

There was none.

ADJOURNMENT

The meeting adjourned at 7:46 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, May 22, 2014

Present: Chair Brandon Ogilvie; Commissioners, Joseph Bernt, Hank Johnson, Bob Lundy and Janet Patrick.

Excused: Vice Chair Mark Jacobsen and Commissioner Larry Marshall

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Lundy moved to approve the agenda; Patrick seconded the motion.

Vote: Patrick, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of March 27, 2014

Motion: Bernt moved to approve the minutes as presented; Lundy seconded the motion.

Vote: Patrick, Bernt, Lundy, and Chair Ogilvie voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Commissioners Johnson abstained as he was not present at the March 27, 2014 meeting.

(3) Public Hearing and Consideration of SUB 14-01, Chapman Point Homeowners Association Request for the Revision of a Previously Approved Plat and Order

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in Chapter 16.04, Subdivisions.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Patrick noted that she is a home owner at Breaker's Point. She does not feel that it would bias her decision. Chair Ogilvie noted that he is currently working for the Maddox's, property owners that have sent in written testimony. He does not feel that it would bias his decision. As ex parte contacts, site visits were declared.

Barnes summarized his staff report. Lundy noted that the plat copies are of the same phase. Barnes stated that it should be documents titled Chapman Point and Chapman Point No. 2, but he added that the plat restrictions are the same for both plats. Barnes reviewed additional materials presented to the Commissioners including: minutes from the February 8, 1995 Planning Commission Special Meeting, topographic map from 1970, and a lidar survey from 2011. Barnes noted additional correspondence received.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Frank Gill, President of the Chapman Point Home Owner's Association, 1740 SW Military Rd. Portland OR 97219, gave testimony, requesting the Commissioners approve the application. A copy of the testimony can be found in the record file.

Tom Horning, Horning Geosciences, 808 26th Ave, Seaside, OR 97138, gave a detailed power-point presentation on dune growth at Chapman Point.

Doug Ray, Carex Consulting, PO Box 441, Seaside 97138, gave a detail presentation on restoring native dune grass and the environmental benefits of approving the application. In response to a question from Johnson, Ray noted that native dune grass would most likely not thrive if introduced now, without dune grading.

Chair Ogilvie called for proponents of the request.

David Snodgrass, 3944 SW Halcyon Rd., Tualatin OR 97062, gave a presentation in support of the application. He stressed that the application is to perform dune grading, not to level the dunes. The applicant wishes to manage the dunes, as other locations in Cannon Beach are allowed.

Stan McCleary, 2872 NW Cumberland Rd., Portland OR 97210, representing his wife, Louisa McCleary, read her letter supporting the application previously presented to the Commissioners.

Ken McQuhae, PO Box 283, Cannon Beach OR 97110, gave testimony in support of the application, noting a need to restore the views, manage the dunes, and rid the dunes of invasive species.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, gave testimony in support of the application, requesting a proactive approach to dune management, noting other locations in Cannon Beach that are able to perform dune grading.

Chair Ogilvie called for opponents of the request.

Lisa Fraser, PO Box 5, Cannon Beach OR 97110, gave testimony in opposition of the application.

John Broderick, PO Box 1032, Cannon Beach OR 97110, gave testimony in opposition of the application, and read his letter previously sent to the Commissioners.

Clay Newton, 3524 NE Klickitat St., Portland OR 97212, gave testimony in opposition of the application, summarizing his letter previously sent to the Commissioners.

Carol Bennett, 1419 S Jackson St., Studio 115, Seattle WA 98144, home owner on 7th St., gave a presentation in opposition of the application, presenting photographs showing how the views have not been impacted by dune growth. She requested that nature be allowed to take its course. She also stated that home values have been increasing, therefore, no exceptional hardship has been presented.

Robin Risley, PO Box 950, 587 N Laurel, Cannon Beach OR 97110, distributed a letter and materials in opposition of the application. She summarized those materials.

Tommy Huntington, PO Box 1054, Cannon Beach OR 97110, gave testimony in opposition of the application, noting concerns with dune grading impacting tsunami and ocean front flooding.

Ed Johnson, PO Box 241, 449 Elkland Court, Cannon Beach OR 97110, thanked the Commissioners for their time and efforts. He gave testimony in opposition of the application, noting that the dunes are there to help protect the home owners from environmental factors.

Douglas Hadley, 2261 Hidden Valley Ln., Charlevoix MI 49720, home owner on 7th and Ash St., gave testimony in opposition of the application, noting that the Planning Commission placed that condition of approval for a reason, that not all applications are equal and should all be reviewed based on their own merit, and that the homeowners were aware of the condition when they purchased their property.

Jeff Harrison, representing himself and his wife, 11445 NW Permian Dr., Portland OR 97229, home owner of 539 N Laurel, gave testimony in opposition of the application, summarizing his letter previously sent to the Commissioners. He referenced "1994 Peratrovich, Nottingham & Drage report on dune erosion and dune overtopping", exhibit "E" of the staff report, highlighting the statement "It is also emphasized that that dune is the first and best line of defense of the land against ocean processes. By that reason, dune grading or destruction of the dune vegetations is strongly discouraged.".

Cindy Richter, PO Box 764, Cannon Beach OR 97110, gave testimony in opposition of the application, reiterating that the restrictions were made for a reason and should not be changed.

Jan Siebert Wahrmund, representing herself and her husband, PO Box 778, Cannon Beach OR 97110, gave testimony in opposition of the application. A copy of the testimony can be found in the record file.

Chair Ogilvie asked if there was staff response. There was none.

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

David Snodgrass, stated that he agreed to the CC&R's that included the restriction, however, those CC&R's belong to the association, with a clause to allow change, with due process. He stated that the now present dune management policies did not exist at the time. He asked the opposition and the Commissioners to trust that the dunes will not be flattened, but managed. He asked the Commission to take into consideration how the Chapman Point property owners have been responsible with maintaining in the past, ex. scotch broom removal.

Frank Gill, reiterated the fact that the dunes have changed because of things that man has done, not environmental factors, noting a 22 foot growth. He asked for the opportunity to lay out a plan that recognized the changing environment and protects the dunes and properties.

Doug Ray, discussed how the native and non-native plants have changed species and habitat.

Stan McCleary, referred to the height of the dunes in 1996, when the condition was made. He reiterated that the application is not for the purpose of view enhancement, but for preserving the view and the beach.

Bruce Francis, discussed Breaker's Point dune grading, how it's effected dunes to the north, and the role they have had in the City's sand management plan. He noted that measures were put into place to stop sand from shifting north.

Closed the public hearing.

Motion: Bernt moved the request be denied; Johnson seconded the motion.

The Commissioners discussed the restriction and the basis of the original decision.

Based on discussion, Bernt chose to amend his motion.

Motion: Bernt moved to tentatively deny the application, with a final vote at the June 26, 2014 Planning Commission meeting to adopt the final findings; Johnson seconded the motion.

Vote: Patrick, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(4) Public Hearing and Consideration of ZO 14-03, City of Cannon Beach Request for a Zoning Ordinance Text Amendment to Chapter 17.56.060 Signs, Section 17.56.060.C, Sign Permit Fee

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in Chapter 16.04, Subdivisions.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. As ex parte contacts, site visits were declared.

Barnes summarized his staff report.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation. Barnes noted the City is the applicant.

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

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

Chair Ogilvie asked if there was staff response. There was none.

Motion: Lundy moved to recommend to the City Council that the sign permit fee be removed from the zoning ordinance; Patrick seconded the motion.

Vote: Patrick, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(5) Authorization of the Chair to Sign the Appropriate Orders

Barnes noted that an order for SUB 14-01 will not be signed until the final findings are adopted at the June 26, 2014 meeting.

INFORMATIONAL ITEMS

(6) Ongoing Planning Items

There was none.

(7) Good of the Order

Barnes noted that June 26th will be the next meeting. Barnes reviewed the appeal process.

ADJOURNMENT

The meeting adjourned at 9:25 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, June 26, 2014

Present: Chair Brandon Ogilvie; Vice Chair Mark Jacobsen; Commissioners, Joseph Bernt, Bob Lundy, and Janet Patrick

Excused: Commissioner Hank Johnson

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:04 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Lundy moved to approve the agenda; Bernt seconded the motion.

Vote: Patrick, Bernt, Lundy, Vice-Chair Mark Jacobsen, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of May 22, 2014

Motion: Lundy moved to approve the minutes as presented; Patrick seconded the motion.

Vote: Patrick, Bernt, Lundy, and Chair Ogilvie voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Vice-Chair Jacobsen abstained as he was not present at the May 22, 2014 meeting.

(3) Public Hearing and Consideration of SR 14-02, Olson Group Architects LLC Request on Behalf of the Owners Donald Pearson and Jerry Kiefaber, for a Setback Reduction for a Residential Remodel and Addition at 231 West Siuslaw Street, Tax Lot 2200, Map 51031DD

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting that currently there is no off-street parking. He has advised the applicant to either provide two compliant parking sites or apply for an off-street parking variance. An application has been received and will be heard at the July 24, 2014 meeting. Barnes recommended that the setback reduction decision be put off until the July meeting, as the variance application may influence the decision. He made note of an eight (8) foot wide public road that allows access to other homes and is pre-existing to the City's municipal code. Barnes noted additional correspondence presented to the Commissioners at the dais.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Curtis Olson, Olson Group Architects, representing the property owner, Don Pearson, 17150 SW Upper Boones Ferry Rd, Durham OR 97224, gave a presentation. In response to a question from Lundy, Olson stated that the current dwelling will be moved to the western setback, however, not encroach beyond the setback, therefore an oceanfront setback reduction is not needed. Barnes clarified that the alley side of the lot is considered the "front yard" based on criteria in the municipal code. In response to Lundy, Olson confirmed that the foundation will be replaced with a new foundation system that meets flood velocity requirements.

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

Chair Ogilvie called for opponents of the request.

Tom Orth, 1932 NE 144th Portland OR 97230, testified in opposition of the request. He noted that his main concern is parking. He and the Commissioners discussed current parking for home owners and additional parking on Siuslaw Street.

Sandy Fitzpatrick, 9350 SW 175th Beaverton OR 97007, testified in opposition of the request. She noted concerns with the existing setbacks.

Chair Ogilvie asked if there was staff response. Barnes confirmed that the home will be located closer to the ocean side lot line, however, it will not encroach beyond the setback.

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

Olson noted that this home is located on a substandard lot. The buildings are not situated parallel to the side property lines and that a less non-compliant structure would visibly be less desirable. He concluded that the application is not significantly different than existing, just adding the second story component. He discussed the current off-street parking conditions.

Motion: Lundy moved to continue the public hearing to the July 24, 2014 meeting; Vice-Chair Jacobsen seconded the motion.

Vote: Patrick, Bernt, Lundy, Vice-Chair Mark Jacobsen, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(4) Public Hearing and Consideration of SR 14-03, David Vonada/Tolovana Architect Request on Behalf of Property Owners Susan Butcher Mclain, Merrie Butcher Postlwait, and Ann Butcher Sommer, for a Setback Reduction for a Residential Remodel and Addition at 3543 South Pacific Avenue, Tax Lot 1600, Map 51031DD

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Vice-Chair Jacobsen reminded the Commissioners that he worked with Vonada for several years and that Vonada had drafted a letter recommending Jacobsen be appointed to the Planning Commission. As ex parte contacts, site visits were declared. Lundy noted he had an ex parte contact with an owner while visiting the site.

Barnes summarized his staff report, noting off-street parking is met at this property.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Vitto Cerelli, Tolovana Architects, 31897 Maxwell Lane Arch Cape OR 97102, summarized the application, noting that the house would get a new flow through foundation, along with being oriented to parallel the property lines. In response to a question from Lundy, Cerelli stated that, by moving the house, it would create a larger setback than the current situation. Lundy noted concerns with moving the home out of parallel with the other homes. Cerelli noted that the home will be three (3) feet lower than the maximum building height with the new second floor addition.

Chair Ogilvie called for proponents of the request.

Sandy Fitzpatrick, 9350 SW 175th Beaverton OR 97007, spoke in favor of the proposed application. She noted that all new construction in that area will most likely be built parallel to the property lines, and that this application would be an improvement on the current placement of the home.

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

Chair Ogilvie asked if there was staff response. There were none.

Chair Ogilvie asked if the applicant or proponents wished to make any additional statements. The applicant and proponent did not.

Motion: Bernt moved to approve SR 14-03 as presented; Patrick seconded the motion.

Vote: Patrick, Bernt, Lundy, Vice-Chair Mark Jacobsen, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

(5) Authorization of the Chair to Sign the Appropriate Orders

Motion: Lundy moved to authorize the chair to sign the appropriate orders; Vice-Chair Jacobsen seconded the motion.

Vote: Patrick, Bernt, Lundy, Vice-Chair Mark Jacobsen, and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(6) Ongoing Planning Items

Barnes stated that the City Council currently has three (3) applications for the new Planning Commissioner position. They will be appointing someone at their July 1, 2014 meeting.

In response to a question from Bernt, Barnes summarized the Chapman Point applicant's request to withdraw the application.

(7) Good of the Order

ADJOURNMENT

The meeting adjourned at 7:05 p.m.

_____

Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, July 24, 2014

Present: Chair Brandon Ogilvie; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Bob Lundy, and Janet Patrick

Excused: Vice Chair Mark Jacobsen

Staff: City Planner Mark Barnes, Land Use Attorney Bill Kabeiseman, and Administrative Assistant Jennifer Barrett

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:08 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Johnson moved to approve the agenda; Bernt seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of June 26, 2014

Motion: Lundy moved to approve the minutes as presented; Patrick seconded the motion.

Vote: Patrick, Bernt, Lundy, and Chair Ogilvie voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Commissioners Johnson and Dewey abstained as they were not present at the June 26, 2014 meeting.

Chair Ogilvie introduced Interim City Manager Jennie Messmer to the Commission.

(3) Continuation of Public Hearing and Consideration of SR 14-02, Olson Group Architects LLC Request on Behalf of the Owners Donald Pearson and Jerry Kiefaber, for a Setback Reduction for a Residential Remodel and Addition at 231 West Siuslaw Street, Tax Lot 2200, Map 51031DD

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. As ex parte contacts, site visits were declared. Lundy stated during his site visit he spoke with architect David Vonada and they walked the site, looked at the house, the neighboring house, and agreed it was not obvious as to what the answer was regarding measuring the relative heights.

Barnes summarized his staff report, noting this is a continuation from last month's meeting, pending applicant addressing the off street parking requirement. Barnes noted the drawings from June packet are still valid, and there was one new correspondence in packet with two additional pieces on dais.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Curtis Olson, Olson Group Architects, representing the property owner, Don Pearson, 17150 SW Upper Boones Ferry Rd, Durham, OR 97224, gave a presentation noting it is a continuation from the previous meeting. Since the last meting Olson has been in discussions with neighboring property owner to the south regarding the parking issue and how it might effect the set back reduction and parking variance. Olson added there is some flexibility, what could effect setback reduction if the off street parking is granted. They could pull the building 2 feet to the east and it wouldn't impact the setback which is a concern to some of the adjacent property owners. Olson presented a full scale drawings which was the same as reduced version from the packet. Olson pointed on large scale drawings the locations of existing foot print and proposed, as well as the zone complying setback envelope. He added pushing the building back may accommodate one off street parking. In response to Johnson's question how many feet from existing building would you be going west, Olson replied 8.25 feet. In response to Lundy's question how much room would that make along the alley and how much parking space would there then be in the lot thats not in the 8foot alley, Olson replied in conjunction with the next request the thought would be to not provide off street parking as parking space would be difficult to get in and out of, and if they don't park well they may block the alley. Lundy asked to clarify benefit of moving east, and Olson replied it would mitigate the impact of neighbor to the north. This would provide the biggest impact for that neighbor. Olson added they may be required to do fire rated construction, and possibly a residential sprinkler system which would improve the fire system in the alley. In response to Patrick's question if you push the building back 2 feet would you still be 6.25 feet from the existing, and Olson agreed. In response to Patrick's question how wide is the deck extending past the home, Olson replied their deck is approximately 8 feet wide.

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

Chair Ogilvie called for opponents of the request.

David Vonada. Tolovana Architects, PO Box 648 Tolovana Park, OR, representing Mick and Nanette Bittler property owners to the north. Commissioner Lundy and Vonada were both at the site earlier today. Vonada stated the most significant issue is the view impact to their potential expansion and remodel of their house. They have a clear view from westerly windows currently and from their deck and the shift could impact their views. Vonada would like to reserve in the next item to consider eliminating parking altogether, which would allow the same size structure being proposed.

Chair Ogilvie asked if there was staff response. There were none.

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

Chair Ogilvie added by separating these two items if we vote against the setback reduction it makes the off street parking moot. Barnes replied suggesting not making any decisions until after the off street parking item is heard. Chair Ogilvie closed the hearing and delayed the decision until the off street parking item is heard, and the Commission will then make a decision on both.

Motion: Lundy moved to approve the setback reduction variance as submitted. There was no second, and Lundy withdrew the motion

Bernt stated dealing with structure that doesn't meet the setbacks, a lot that no longer meets requirements for build-able lot and has no parking while also rebuilding the structure, its a front to everyone else in the City that is required to provide two parking spaces. Bernt added this is a building structure that by the proposer admission is going to have an impact to the neighbors to the north. There is currently no parking, and when you put it all together it flies in the face of all the letters we've received, we need to stand up as citizens of Cannon Beach for the code and apply it equitably across the board.

Motion: Patrick moved to deny the setback variance; Lundy seconded the motion.

Vote: Patrick, Bernt, Lundy, Johnson and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Commissioner Dewey abstained.

(4) Public Hearing and Consideration of OSP 14-01, Olson Group Architects LLC Request on Behalf of the Owners Donald Pearson and Jerry Kiefaber, for an Off-street Parking Variance for a Residential Remodel and Addition at 231 West Siuslaw Street, Tax Lot 2200, Map 51031DD

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in the Municipal Code, Section 17.84.040, Variances, Off-Street parking.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting code requires two off street parking for single family residence, the nearest parking on Siuslaw is a distance away. At last hearing it was stated that there was 3-4 house serviced on the 8ft alley. The proposal is for one off street parking or zero. There are two pieces of correspondence that were included on the dais. If you deny the setback reduction or off street parking it may render one moot, however there are two applications each requiring a decisions.

Dewey asked if the Commission is setting a precedent by allowing the parking variance, Barnes replied variance has to stand on their own merits adding there are site specific factors that bear on each request.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Curtis Olson, Olson Group Architects, representing the property owner, Don Pearson, 17150 SW Upper Boones Ferry Rd, Durham, OR 97224, gave a presentation, noting as touched on during the previous item the parking situation at this location is difficult. There are 3 properties served by the alley. With the setback reduction we could carve out a parking space. With owners to the south it may be more beneficial for properties involved not to provide parking spaces. We are not making a current situation worse, just not able to address off street parking on the site, and given the number of properties the alley uses, it would be difficult to make a 90 degree turn on the property and back out and head out forward. It's a challenging situation and our thoughts is reduction to zero in conjunction with moving the buildings makes the best possible situation for the adjacent neighbors and parking conflicts down the alley.

In response to Dewey's question if you complied with set back could you turn car around, Olson replied I don't believe so, you might be able to come in if you did a bunch of cut and fills you may eventually be able to turn around, but it would be difficult at best.

Chair Ogilvie called for proponents of the request.

David Vonada. Tolovana Architects, PO Box 648 Tolovana Park, OR, representing Mick and Nanette Bittler property owners to the north. He agrees with Olson in that the best solution for the neighborhood is to zero out the parking adding all neighbors and adjoining property owners are accustom to how they park. The size of house isn't going to add a lot of car parking to the site of area. Shifting the cabin as far east as the cabin currently is a

win win situation. It will lessen the impact of the proposed structure to the property owners of the north. The current parking situation works now and it will continue working in the future.

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

Chair Ogilvie asked if there was staff response. Barnes noted the question comes up what can be built without Planning Commission approval. You can do remodel work without touching the wires that get you here, it's tricky but there is breathing room in the ordnance to do a little bit here, but not much. This is also in the velocity zone. If you do this alternative approach that doesn't go before Planning Commission it would still strengthen the velocity zone. No one is requesting an ocean front set back, it has been looked at and it has been accurately rendered across those lots. Barnes noted he wanted to touch on those two points. In response to Lundy's question - could they make the case they can do remodel without a need for variance if they don't cross the threshold Barnes replied there is a 50% value threshold that is in play, but there is some room in that as well. The value is the major threshold that they would need to stay below to avoid going through Planning Commission approval.

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

Chair Ogilvie asked Barnes for recommendation on which one should go first. Barnes replied if you are looking to adopt the solution that Olson and Vonada outlined it may look like slide proposed design to the existing east foot print line. would work best on the SR approval, but may not want to approve that until you know that you can meet the criteria to the off street parking line.

Motion: Bernt moved to deny the request for off street parking; Lundy seconded the motion.

In response to Dewey's question does the current building comply with parking, Barnes replied no. In response to Dewey's question does this allow them to turn around and how big are they, Barnes replied dimensions are not the issue, it's the backing and turning afforded by the 8 foot alley.

Vote: Patrick, Bernt, Lundy, Johnson and Chair Ogilvie voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Commissioner Dewey abstained.

(5) Public Hearing and Consideration of AA 14-02, Nicholson Appeal of Administrative Decision Denying DP 14-01, Review and Approval of Development Permit Confirming Four Historic Legal Lots at Tax Lot 7000, Map 51019AD

Chair Ogilvie introduced the item, noting that this request will be reviewed against the applicable criteria in the Municipal Code, Section 17.82.020, Non-conforming Lots; Section 16.04.310, Design Standards-Lots; and Section 17.88.150, Requirements of a Request for Appeal of a Development Permit, Design Review Board, or Planning Commission Decision.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting this is an appeal of an administrative decision and is a question of interpreting the municipal code. This is not an approval of a building, it's an approval or denial of a code interpretation. Multiple letters were received today; before noon correspondence was emailed, after noon correspondence is on the dais.

Kabeiseman reiterated it's a legal issue on how the City interprets the ordinances. What did the City Council intend when it adopted the ordinances. Kabeiseman recommend the Commission focus on City ordnanceas and what they say. The steeper the lot, the bigger the lot needs to be, if you deal with a steep slope you are going to have to have a bigger lot. Kabeiseman discussed the various slope density requirements, if the slope density provision applies and they have two pieces of property, but they may really only have one due to the requirements. Kabeiseman discussed the slope density code, adding the Planning Commission does have some interpretive ability. Kabeiseman added the non conforming use provision is for after the code has changed, the non conformity is something you can't go back and deal with. Anytime someone creates a new lot, you have to

meet the code in place at that time. You can interpret the code two ways, the slope density provision is in a different part of the code and doesn't fit in the non conforming lot provisions; or the slop-density requirements can be applied with the non conforming lot provision.

In response to Chair Ogilvie's question if this were to be brought before us for someone wishing to develop a 5,000 square foot lot on this property does the slope density not apply; Barnes replied in Lang's Landing case they had a large piece of property that could have been developed into more lots, but due to the slope they ended with fewer lots. The question is whether it applies when no subdivision is on the table. In response to Chair Ogilvie's question what would be required for a single lot, Barnes replied if it's a sloping lot then slope density, setbacks, lot coverage, floor area ratio, unless you reduce them with a variance or setback reduction.

Chair Ogilvie opened the public hearing and stated that the pertinent criteria to be considered regarding this request are 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 Ogilvie asked if the applicant wished to make a presentation.

Jeff Nicholson 4190 SW Council Crest Dr., Portland, OR 97239
Nicholson states he is a long time north Cannon Beach property owner and part time resident. He is not asking for a variance or exception, just the proper application of City Code for 4 lots that have existed since 1890. To build he needs to meet all building and planning requirements, geological hazard report (GHR), etc. There is a 98 year old cottage currently on the property and he has seen many torn down over the years. The interpretation the City has taken on the slope density requirements for the property encourages tearing down a 98 year old cottage and denies the construction of several cottages, but allows a 15,000 square foot house to be built, at the same time denying rational family style cottages. Nicholson added this is an opportunity to have some impact on how his neighborhood is developed. Nicholson received the opinion from a land use attorney prior to purchase on whether there were one or four lots. The land use attorney said there was four. If the interpretation of how City code applies to the property is that there is 4 lots, a person can still built a 15,000 square ft house, keep the 98 year old structure and built cottages. There were several offers on the property, one was for a 9,000 square foot house. People have come to him to buy the property from him at his cost with the intent to build a 10,000 square foot home. What's the better outcome to the community? Nicholson stated he has the full intentions of saving/ renovating the cottage, living in it, and to develop 2 other cottages. Nicholson added hopefully he will profit from other two cottages, we will have some say in how the property turns out. He wants to use the funds to renovate the 98 year old structure. Nicholson added there has been precedent set, stated there was previous person in the City who was able to do this 10-12 years ago. His representative will discuss if code is valid, adding the City attorney started discussion that this is not without doubt, it's debatable. If it is without doubt what is the best end for the community? In 25 years there has been many cottages being torn down.

Will Rassmussen Land Use Attorney for Miller Nash 111SW 5th Ave., Portland, OR 97204
Rassmussen apologized for depth of paper that just showed up, adding the first 7 pages were the most important, the rest is the background of ordinances. Rassmussen commend Kabeiseman and Barnes on how they framed it for the Commission so they feel comfortable to act in either direction. The only caveat is the code has a clear answer, the text has a clear answer and it will ultimately prevail. The subdivision slope rule doesn't apply to existing lots. Nicholson wants to save the historic cottage on site, and to put two new houses. As Kabeiseman pointed out there are two code provisions, non conforming lot rule and the slope density rule in subdivision code. The subdivision code applies to request for subdivision and we are not asking for a subdivision. We are not asking for property line adjustment or variance. The ORS states that the City can not require to subdivide lots that are already subdivided. Supreme Court says look at text, context, and legislative history. When you look at history and how they came in it's un-ambiguous: the subdivision slope rules do not apply. The non-conforming lot rule can be read a dozen different ways, it's not 100% clear, doesn't say you have to aggregate lots. Rassmussen added the City's interpretation is to suck out one rule from subdivision code that says look at zoning and slope on the ground. That doesn't work since we are not subdividing the property. With what we are proposing the

nonconforming lot rules do not apply. The City's interpretation says we are using the nonconforming lot rule to suck in the slope rule, which came in 1995. The city adopted zoning and subdivision at the same time. The same language has carried forward with the rule. We are in an R2 zone and we meet the 5,000 min lot. The subdivision rule has language thus far that indicates the subdivision, and Rassmussen read the text from the zoning code 16.04310 subdivision slope rule. This is not applied to historic lots, it's for subdivisions. The same logic that would lead to apply for subdivision rules do not apply , they clearly show they are not intend to be applied that way. It applies to application to subdivision land, not to land that was divided 100 years ago. The text and context is clear, the Oregon rules are clear, in this situation the subdivision slope rules do not apply to already existing subdivision lots. We are asking for you to follow the law, not make exceptions.

Chair Ogilvie asked if there were any objections to keep hearing open? Rassmussen said no objection and reiterated first 7 pages of the binder documents are the most crucial. Kabeiseman added with keeping record open would you object to an extension of the 120 days, and Rassmussen said would be glad to extend. Barnes confirmed dates stating the August meeting would be on the 28th and Rassmussen agreed to a 35 day extension. Rassmussen thanked the commission for their time.

Chair Ogilvie called for proponents of the request.

Jane Harding, PO Box 1386, Cannon Beach, OR 97110
Harding spoke in favor of the appeal. She noted they are in full approval of what Nicholson is proposing to do and he was willing to adjust and listen to their input with regards to trees on the property. Harding added as a neighbor what Nicholson has proposed is a good plan.

Ted Wood, PO Box 921, Cannon Beach, OR 97110
Wood stated he is a broker in community and speaks on behalf of what makes Cannon Beach attractive. Adding it is the charm and cottages and seeing them preserved continues to make it attractive and helps with property values.

Farzahn Kamali, PO Box 1425, Cannon Beach, OR 97110
Kamali spoke in favor of the appeal. He stated his support and his preference for the smaller cottages over a mega mansion. Kamali added there has been a precedent set at the north end and in other areas with regarding to aggregate lots.

Linda Becks Sweeney, PO Box 215, Cannon Beach, OR 97110
Becks Sweeney spoke in favor of the appeal. She noted she has lived here for 30 years and has seen de-platting which is not something she agreed with, adding this is not a subdivision and they are not proposing one.

Marty Schwab Harris, PO Box 1452, Cannon Beach, 97110
Schwab Harris spoke in favor of the appeal. She noted she lives in home built in 1920's believes in retaining as much charter in Cannon Beach as possible and hopes this ins not the Cannon Beach of the future. The owner proposing a thoughtful approach to the property and doesn't want to do anything that the appropriate geotech studies wouldn't allow.

Chair Ogilvie called for opponents of the request.

Andra Georges, 5270 SW Landing Square #7, Portland, OR 97239
Georges spoke in opposition of the appeal, referencing the letter sent to the Commission. She noted she hadn't met Nicholson before and his intentions sound good, however finds it hard to believe that 3 houses in a buildable area in theses lots would be any better than a mc-mansion. Georges added the possibility that Nicholson could sell lots to someone else in the future and we need to look at what is best for the land and hopes the Council will uphold the decision.

Ken McQuhae, PO Box 283, Cannon Beach, OR 97110
McQuhae spoke in opposition of the appeal. McQuhae referenced the letter he submitted to the Commission. He noted the history in several areas in Cannon Beach including Chapman Point. McQuhae added slope density was put in place on purpose with one big reason being safety. He is not opposed to the applicant, adding he'd like to see the plan. McQuhae felt it would be a mistake to approve this upfront without seeing what the plan is, and how the applicant is going to deal with the perpetual and exclusive easement which is in letter that was submitted.

Chair Ogilvie asked if there was staff response.

Kabeiseman stated he felt there are two interpretation to make here, adding it was interesting to hear about Chapman Point and that may provide some interesting ideas which he will discuss with Barnes. Kabeiseman added this comes down to how two provisions interplay adding he doesn't feel that the fact that one came before the other affects the nonconforming aspect of it.

In response to Bernt's question about going back and capturing the history, Barnes replied he had not looked at history, adding there are minutes and staff reports of those meetings, but it's unlikely they will yield the nuance that turns the key here. Barnes added there are records on Chapman Point, however whether you are going to find the minutes that state they were doing this because of this reason, it may or may not be there. Bernt responded given that the Commission has enough paperwork and probably more research to do he suggested continuing the hearing.

A discussion was held regarding keeping the hearing open or closed for oral, and open for written or close completely. Chair Ogilvie asked the Commission for thoughts on keeping the record open.

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

Will Rassmussen Land Use Attorney for Miller Nash 111SW 5th Ave., Portland, OR 97204
Rassmussen had question about procedure and requested to have 7 days to be able to address written materials, but not for additional evidence. To address Georges and McQuhae Rassmussen stated tab 8 in the binders presented provided a response to McQuhae's letter, and the information in the back of binder is response to Georges' letter. Rassmussen summarized his written replies to both Georges and McQhae's letters, adding the City has the right to adopt zoning and subdivision codes and asks that we apply the code as they are written. McQuhae raised several issues with regards to accretion which Rassmussen summarized as well. The Chapman Point history was transcribed by Nicholson for a museum and would be available if the Commission was interested.

Kabeiseman stated regarding housing, if you are proposing needed housing you can only apply clear and objective criteria to that, and they are asking for an administration decision not housing. In response to Patrick's question could he take these 4 lots and sell them individually, Kabeiseman replied as he understands it yes he could. If you sold them individually, but for code purposes we will still look at them as an aggregate. In response to Ogilvie's question if one was sold then we would ask them adhere to the slope density requirement, Kabeiseman replied yes because they were owned by a single person at the time the ordinance was passed. In response to Chair Ogilvie's question how many lots does it take to classify a group of property a subdivision, Barnes replied there are a couple different answer, more than 3 lots in a calendar year is a subdivision, fewer then 3 in calendar year is a partition. Seal Rock Subdivision was a legal instrument recorded with the County, not hinged on the 3 lots or not. In response to Chair Ogilvie's question if they were to develop on their own, regardless of selling or not, wouldn't make a difference, Barnes replied the zoning ordinance allows certain things on a tract of land (main house and accessory) once you get to the second dwelling you have to break the property apart and that is where the slope density comes in, however in Nichols and Rssmussen's mind that doesn't matter since it's already been subdivided. Kabeiseman stated he didn't believe they would need to go through subdivision or partition, the question is are they tied together for development purposes. In response to Chair Ogilvie's question is it your opinion that they are tied together, Kabeiseman replied his interpretation of the code is yes, but also see an interpretation that they are not.

Chair Ogilvie suggested keeping the public record open for written testimony only. Barnes said the next meeting is 8/28, Kabeiseman added there is 7 days for new arguments, then additional 7 days for response, then 7 days for applicant only.

Barnes re-stated the dates: 8/1 for new argument, 8/8 for response, 8/15 for appellant only.

Chair Ogilvie asked if that was ok with the appellant, both Rassmussen and Nichols said yes.

Chair Ogilvie closed the agenda item for the time being.

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

Motion: Lundy moved to authorize the chair to sign the appropriate orders; Johnson seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(7) Ongoing Planning Items

Barnes informed the Commissioner that Vice Chair Jacobsen submitted a letter of resignation. Council will look at any applications received for a new member at their September meeting. Barnes added since Commissioner Jacobsen was the Vice Chair the Commissioners will need to vote on a new Vice Chair, or they could wait. Lundy would like to think about it and discuss at next meting. Chair Ogilvie stated if anyone would be interested and feels qualified to please speak up.

(8) Good of the Order

ADJOURNMENT

The meeting adjourned at 8:47 p.m.

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Administrative Assistant Jennifer Barrett

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, August 28, 2014

Present: Chair Brandon Ogilvie; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Bob Lundy, and Janet Patrick

Excused: None

Staff: City Planner Mark Barnes, Land Use Attorney Bill Kabeiseman, and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Lundy moved to approve the agenda; Dewey seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of July 24, 2014

Motion: Bernt moved to approve the minutes as presented; Dewey seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(3) Continuation of Consideration of AA 14-02, Nicholson Appeal of Administrative Decision Denying DP 14-01, Review and Approval of Development Permit Confirming Four Historic Legal Lots at Tax Lot 7000, Map 51019AD

Chair Ogilvie introduced the item and asked if any Commissioners have had any ex parte contacts or made site visits since the July 24, 2014 hearing. Lundy noted that he made an additional site visit, and had an ex parte contact at the site. He had a conversation with John Wickman, a surveyor, regarding how the lots have been those lots for a very long period of time. Dewey noted he made an additional site visit.

Barnes summarized his staff report, noting the additional correspondence received. He stated that the final findings will be sent out next week, however, if the Commissioners would like to review the findings, they can at their October meeting. If they do wish to wait and review the findings and only make a tentative decision at tonight's meeting, they will run into problems meeting the 120 day requirement for a land use decision.

Motion: Lundy moved to approve the appeal and overturn the staff decision to deny the development permit;

In response to Patrick, Lundy clarified his motion, giving additional details on his decision. In response to Dewey regarding the build-ability of the lots, Barnes clarified that there would be several more steps in deciding whether or not the lots are build-able.

Dewey seconded the motion.

In response to questions from Lundy regarding the building permit process, Barnes stated that there are two slope provisions in the City municipal code. He described both provisions. In response to a question from Bernt,

Lundy clarified that the motion is overturning the staff decision and saying that there are four historic legal lots, whether or not they are build-able is a separate decision entirely.

Chair Ogilvie stated concerns with overturning the staff decision. He stated that he agrees with staff's decision, and that the City has clear criteria in regards to slope density. In response to Commissioner's discussion, Barnes stated that a slope greater then 20% requires a geo-hazard report. Bernt expressed his thoughts and why he is in agreement with staff's decision. In response to a question from Lundy regarding building on the lot, Barnes stated that the applicant could have applied for a variance, however, they chose to apply for a development permit instead. In response to a question from Dewey, Kabeiseman stated that Land Use Board of Appeals (LUBA) looks for a consistent interpretation of the code, therefore, the expectation is that this would set precedent. In response to a question from Chair Ogilvie, Barnes stated that if the motion passes, the final findings will be reflective of Rassmussen's memo dated August 15, 2014; if the Planning Commission denies the appeal, the findings will reflect Kabeiseman's memo dated June 18, 2014. The Commissioners discussed the 120 day requirement for land use decisions. The consensus was to make a decision at tonight's meeting and have Barnes complete the findings to accompany the signed order.

Vote: Lundy, Patrick, and Dewey voted AYE; Bernt, Johnson, and Chair Ogilvie voted NAY; the vote was 3/3 and the motion failed.

Motion: Lundy moved to deny the appeal and uphold the staff decision to deny the development permit; Bernt seconded the motion.

Vote: Lundy, Bernt, Johnson, Patrick, and Chair Ogilvie voted AYE; Dewey voted NAY; the vote was 5/1 and the motion passed.

Barnes noted the 20 day appeal period.

(4) Authorization of the Chair to Sign the Appropriate Orders

Motion: Bernt moved to authorize the chair to sign the appropriate orders; Johnson seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(5) Election of a Vice-Chair

Motion: Bernt moved to nominate Lundy as Vice-Chair; Patrick seconded the motion.

Vote: Patrick, Dewey, Bernt, Johnson, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(6) November/December Planning Commission Meeting Dates

The Commissioners discussed new meeting dates to schedule around the holidays. A tentative decision was reached for November 24th and December 22nd. New dates will be determined at the September meeting.

(7) Ongoing Planning Items

None at this time.

(8) Good of the Order

None at this time.

ADJOURNMENT

The meeting adjourned at 6:40 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, September 25, 2014

Present: Chair Brandon Ogilvie; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Lisa Kerr, Bob Lundy, and Janet Patrick

Excused: None

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Welcome New Planning Commissioner, Lisa Kerr

Chair Ogilvie introduced the new Planning Commissioner, Lisa Kerr. The Commissioners welcomed her.

(2) Approval of Agenda

Motion: Lundy moved to approve the agenda; Johnson seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(3) Consideration of the Minutes of the Planning Commission Meeting of August 28, 2014

Motion: Lundy moved to approve the minutes as presented; Dewey seconded the motion.

Vote: Bernt, Dewey, Johnson, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously. Kerr abstained, as she was not present at the August 28, 2014 meeting.

(4) Public Hearing and Consideration of SR 14-04, Tolovana Architects Request for a Setback Reduction in Conjunction With the Addition of a Second Floor to an Existing Dwelling at 291 Noatak St

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared. Lundy noted that he contacted a neighbor to insure she was aware that this item was going to be heard at tonight's meeting. He stated that he did not give any advice on the item.

Barnes summarized his staff report. He noted that the new addition does not encroach on the ocean front setback. Other than the side-yard setback, all other criteria are met. Barnes clarified the maximum roof height in response to Commissioners questions, noting the maximum height for a flat roof is twenty-four (24) feet, and twenty-eight (28) for a pitched roof.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Vito Cerelli, 31897 Maxwell Lane, Arch Cape, OR 97102, representing Tolovana Architects and the property owner, gave a presentation. He noted that he has had a site visit with Matt Gardner from the fire department regarding fire/life safety. Gardner has requested that the north wall be replaced with a fire rated wall. In response to questions from the Commissioners, Cerelli stated that the proposed roof pitch is above 5-12 and will be approximately six (6) inches below the height restriction. Cerelli stated that the applicant is looking to take advantage of the existing structure for the addition, causing less of a disruption in the current structure. Cerelli noted that no ocean views will be impacted by the addition. The existing eighteen inch (18") eaves on the north side will be removed and a fire rated, flush wall will be placed. In response to concerns from Commissioners regarding solar access to the home located to the north, Cerelli stated that the impact may be minimal, if at all, in the winter. The home located to the north is located far off the south property line and slightly to the west. The Commissioners discussed solar access in detail.

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

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

Chair Ogilvie asked if there was a staff response. Barnes stated that the current eighteen inch (18") eaves are exempt from the setback requirement.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Johnson moved to approve the setback reduction; Dewey seconded the motion.

Bernt reiterated concerns with the addition impacting solar access to the north. The Commissioners discussed in detail wether or not the applicable criteria have been met with this application.

Vote: Dewey, Johnson, Kerr, Patrick, and Chair Ogilvie voted AYE; Lundy and Bernt voted NAY; the vote was 5/2 in favor and the motion passed.

(5) Authorization of the Chair to Sign the Appropriate Orders

Motion: Lundy moved to authorize the chair to sign the appropriate orders; Johnson seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(6) November/December Planning Commission Meeting Dates

The Planning Commission will be meeting on November 24, 2014 and December 22, 2014. Barnes asked that any Commissioners unable to attend these meeting notify staff to insure we have a quorum.

(7) Ongoing Planning Items

Nicholson Appeal of AA 14-02

Barnes stated the the Planning Commission's decision to deny AA 14-02 has been appeal to the City Council. The public hearing is scheduled for October 7, 2014.

(8) Good of the Order

Lisa Fraser, a property owner in Cannon Beach, gave a presentation regarding the City's dune grading management plan. Barnes stated that the dune grading management plan will be a discussion item at the October 14, 2014 City Council work session. The Commissioners discussed the need for reviewing and updating the management plan.

In response to a question from Chair Ogilvie regarding the new City Manager, Barnes confirmed the Brant Kucera was hired and will be starting in November.

ADJOURNMENT

The meeting adjourned at 6:44 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, October 23, 2014

Present: Vice Chair Bob Lundy; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Lisa Kerr, and Janet Patrick

Excused: Chair Brandon Ogilvie

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Vice Chair Lundy called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Dewey moved to approve the agenda; Johnson seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of September 25, 2014

Motion: Dewey moved to approve the minutes as presented; Johnson seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(3) Public Hearing and Consideration of SR 14-05, Brian and Alicia Blalock Request for a Setback Reduction in Conjunction With the Reconstruction of an Existing Dwelling at 180 W Adams

Vice Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Vice Chair Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report noting that this property sustained fire damage over this last summer. He noted that if the damage exceeds 80% of the value, the rebuild must meet current code. If the damage is less than 80%, it can be approved administratively. In response to a question from Bernt, Barnes stated that the applicants are seeking a new layout and that this application should be viewed as if it is a vacant lot. He recommended that if the Commission approves this application, they approve it with the condition that the existing grade be on the final plans.

Vice Chair Lundy asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Vice Chair Lundy 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; 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.

Vice Chair Lundy asked if the applicant wished to make a presentation.

Alicia Blalock, applicant and owner, 5472 Bellflower St. Salem OR, gave a presentation. She noted the extensive fire and water damage in detail. The insurance estimate exceeds real market value. Besides the setbacks, all other criteria is met. She also noted that a structure built to code would be a tall, two story, building that would have a negative impact on neighboring views and be out of character for the area. She stated that they have received positive feedback from neighboring property owners.

Brain Blalock, applicant and owner, 5472 Bellflower St. Salem OR, gave historic background on the placement of the existing home.

Vice Chair Lundy called for proponents of the request. There were none.

Vice Chair Lundy called for opponents of the request. There were none.

Vice Chair Lundy asked if there was a staff response. There were none.

Vice Chair Lundy asked if the applicant wished to make an additional statement. The applicant did not.

Vice Chair Lundy closed the public hearing.

Motion: Patrick moved to approve the setback reduction with the condition that the existing grade be noted on the final plans; Kerr seconded the motion.

The Commissioners discussed the application at length. Bernt noted concerns with approving the application, asking if the Commissioners would approve it if it was on an empty lot. He noted concerns regarding setting precedence. Patrick commended the applicants for trying to fit into the neighborhood.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(4) Public Hearing and Consideration of V 14-04, Tolovana Architects Request for an Increase in Maximum Floor Area Ratio Allowed in Conjunction with the Addition of a Second Floor Above an Existing Garage at 187 W Madison

Vice Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.84 Variances.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Vice Chair Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report.

Vice Chair Lundy asked if there was additional correspondence. Barnes stated there were no additional correspondence, other than a previously distributed email from Heidi Laliberte in the Commissioners packet.

Vice Chair Lundy 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; 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.

Vice Chair Lundy asked if the applicant wished to make a presentation.

David Vonada, Tolovana Architects, PO Box 648, Tolovana Park, OR 97145, representing the property owners, gave a presentation. He distributed proposed elevations. In response to concerns from a neighboring property owner regarding privacy, he noted that the existing deck that overlooks that property will be infilled and a bedroom, with no eastern facing window, will be placed there.

Josh Rankin, PO Box 386, Cannon Beach OR 97110, property owner, responded to Commissioners questions regarding two existing studies. In response to questions from Kerr, Rankin asked that the email from Heidi Laliberte, a neighbor who is in opposition of the application, be read into the record. Kerr read the email into the record (original email is located in the record file.) Rankin noted the effect on solar access will be minimal. In response to a question from Dewey, Vonada stated that the addition will have a twenty-five (25) foot roof height, not twenty-seven (27) feet, as noted on the plans.

Vice Chair Lundy called for proponents of the request. There were none.

Vice Chair Lundy called for opponents of the request. There were none.

Vice Chair Lundy asked if there was a staff response. There was none.

Vice Chair Lundy asked if the applicant wished to make an additional statement. The applicant did not.

Vice Chair Lundy closed the public hearing.

Motion: Bernt moved to deny the variance; Johnson seconded the motion.

Bernt stated that he had the same concerns as Laliberte regarding privacy and solar access. Kerr agreed and also stated that the applicant is unable to prove exceptional and extraordinary circumstances for granting the variance.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(5) Public Hearing and Consideration of SUB 14-01 EXT, Dale Lang Request for a One-Year Extension for an Approved Tentative Plat (SUB 13-01) for a 13 Lot Subdivision, Lang's Landing

Prior to the introduction of this item, Vice-Chair Lundy stated that he will need to recuse himself, as he is in the notification area for items (5) through (7). An Acting Chair must be chosen.

Motion: Bernt nominated Johnson as Acting Chair; Dewey seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, and Patrick voted AYE; the vote was 5/0 in favor and the motion passed unanimously.

Vice-Chair Lundy stepped down from the dais and sat in the audience.

Acting Chair Johnson introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 16.04.145, Tentative plan – Time limit.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Acting Chair Johnson asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting no change from the 2013 subdivision approval. He noted the previous conditions of approval. Barnes distributed a preliminary plat layout.

Acting Chair Johnson asked if there was additional correspondence. Barnes stated there were no additional correspondence, other than a previously distributed email and letter from Tom Ayres in the Commissioners packet.

Acting Chair Johnson 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; 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.

Acting Chair Johnson asked if the applicant wished to make a presentation.

Dale Barrett, HLB/OTAK, 4523-A Highway 101 North, Gearhart, representing the applicant, Dale Lang, gave a presentation. Barrett noted amendments to the previous plan that addresses neighboring property owner's concerns. He reviewed in detail: storm drainage, emergency vehicle access, wetland impact, mitigation plan, and road height.

Acting Chair Johnson called for proponents of the request. There were none.

Acting Chair Johnson called for opponents of the request. There were none.

Robert Lundy, PO Box 1357 Cannon Beach, OR 97110 asked about condition 18 concerning lot 12 and Old Cannon Beach Road. He stated that he was not speaking as an opponent. Barrett said several possible solutions have been discussed. Barnes stated that the applicant will need to show condition 18 has been met before final plat approval.

Acting Chair Johnson asked if there was a staff response. Barnes reviewed the process for approving subdivisions, including submission of engineering drawings and review by the Public Works Department.

Acting Chair Johnson asked if the applicant wished to make an additional statement. The applicant did not.

Acting Chair Johnson closed the public hearing.

Motion: Dewey moved to approve the subdivision extension with the previously stated conditions; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, and Patrick voted AYE, Kerr voted NAY; the vote was 4/1 in favor and the motion passed.

(6) Public Hearing and Consideration of V 14-05, Dale Lang Request for a Variance in Conjunction with Lang's Landing Subdivision

Acting Chair Johnson introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.84 Variances.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Acting Chair Johnson asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting that the application is not for an extension of a previous approval. The previous approval has expired. He noted two additional exhibits distributed by Barrett (see record file).

Acting Chair Johnson asked if there was additional correspondence. Barnes stated there were no additional correspondence, other than a previously distributed email and letter from Tom Ayres in the Commissioners packet.

Acting Chair Johnson 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; 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.

Acting Chair Johnson asked if the applicant wished to make a presentation.

Barrett stated he had nothing further to add. The Commissioners had no additional questions.

Acting Chair Johnson called for proponents of the request. There were none.

Acting Chair Johnson called for opponents of the request. There were none.

Acting Chair Johnson asked if there was a staff response. There were none.

Acting Chair Johnson asked if the applicant wished to make an additional statement. The applicant did not.

Acting Chair Johnson closed the public hearing.

Motion: Bernt moved to approve the variance; Dewey seconded the motion.

Vote: Bernt, Dewey, Johnson, and Patrick voted AYE, Kerr voted NAY; the vote was 4/1 in favor and the motion passed.

(7) Public Hearing and Consideration of CU 14-05, Dale Lange Request for a Condition Use in Conjunction with Lang's Landing Subdivision

Acting Chair Johnson introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.80 Conditional Uses.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Acting Chair Johnson asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report, noting that the application is not for an extension of a previous approval. The previous approval has expired. He referenced the "restored area" on the exhibits presented by Barrett.

Acting Chair Johnson 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; 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.

Acting Chair Johnson asked if the applicant wished to make a presentation.

Barrett stated he had nothing further to add. The Commissioners had no additional questions.

Acting Chair Johnson called for proponents of the request. There were none.

Acting Chair Johnson called for opponents of the request. There were none.

Mirth Walker, 4910 SW Richardson Drive Portland OR 97239, stated that she participated in the previous public hearings. Walker wanted to assure that all previously noted concerns were taken into consideration. One concern being the removal of undocumented fill.

Acting Chair Johnson asked if there was a staff response.

Acting Chair Johnson asked if the applicant wished to make an additional statement. The applicant did not.

Acting Chair Johnson closed the public hearing.

Motion: Bernt moved to approve the conditional use with the previously approved conditions; Dewey seconded the motion.

Vote: Bernt, Dewey, Johnson, and Patrick voted AYE, Kerr voted NAY; the vote was 4/1 in favor and the motion passed.

(8) Authorization of the Vice Chair and Acting Chair to Sign the Appropriate Orders

Motion: Dewey moved to authorize the vice chair to sign the appropriate orders and acting chair to sign the appropriate orders; Patrick seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(9) Ongoing Planning Items

Nicholson Update

City Council upheld the Planning Commission's decision to deny the Nicholson appeal. Nicholson is likely to file an appeal with the Land Use Board of Appeals (LUBA), however, staff is working with Nicholson on an alternative application. That application could possibly be before the Commission at the December or January meeting. At this time no application or appeal with LUBA has been filed.

Upcoming Meeting Dates, November 24th and December 22nd

Barnes reminded the Commissioners of the alternative meeting dates previously agreed upon. Barnes asked that staff be notified if any Commissioner is unable to attend to insure a quorum.

(10) Good of the Order

ADJOURNMENT

The meeting adjourned at 7:46 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, November 24, 2014

Present: Chair Brandon Ogilvie, Vice Chair Bob Lundy; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Lisa Kerr, and Janet Patrick

Excused: None

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:05 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Bernt moved to approve the agenda; Patrick seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of October 23, 2014

Motion: Lundy moved to approve the minutes as presented; Patrick seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Patrick voted AYE; the vote was 6/0 in favor and the motion passed unanimously. Chair Ogilvie abstained as he was not present at the October 23, 2014 meeting.

Chair Ogilvie introduced the new City Manager Brant Kucera.

(3) Public Hearing and Consideration of CU 14-06, Hegrenes, on Behalf of the Ocean Avenue Homeowners Association (OAHOA), Request for a Conditional Use Permit to Allow the Implementation of Sand Management Program Along Ocean Avenue Between Jefferson and Jackson Streets

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.42.060 Oceanfront Management Overlay (OM) Zone, Specific standards, Foredune grading.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Dewey stated that his father is a property owner in the notification area, therefore he will be stepping down. Dewey stepped down from the dais and sat in the audience. Patrick noted that she is a home owner at Breakers Point. Breakers Point has applied for a conditional use permit to allow dune grading as well. That application will be heard before the Commissioners in December. She stated that she believes this will not effect here decision for this application.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report noting a correction, that the property is located in the flood hazard overlay zone, which was not indicated in the public hearing notice. The staff report does address the flood hazard overlay zone. He also noted that on page seven (7) of the staff report, the text should read 540 "square" feet, it currently reads "540 feet". Barnes summarized appendix D of the Comprehensive Plan Background Report, "Cannon Beach: an Integrated Approach to Sand Management", and how it pertains to this application. He noted two letters before the Commissioners, one from Ken McQuahe and another from Lisa Fraser. Barnes noted the lack of monitoring reports in the past and the general need to update the plan. He stated that the Commissioners have

discussed the need to update the Comprehensive Plan Background Report and generally making it more user friendly. This has been brought up to the City Council and the City is hoping to budget this item for the 2015-2016 fiscal year. Any updates to the plan will be brought before the Planning Commission prior to finalizing.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence other than those previously noted.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Pat Hegrenes, PO Box 1436, Cannon Beach OR 97110, applicant and representative for the OAHOA noted that this is the second phase of dune grading for the Presidential Streets. Phase I was completed in April of this year. Phase II comprises of dune grading from West Jefferson south to Jackson Street.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside OR 97138, gave a powerpoint presentation and summary of his reports dated November 5, 2014 and August 25, 2014. A copy of the powerpoint presentation can be found in the record copy of this meeting. In response to a question from Lundy regarding McQuahe's letter, Horning gave a detailed explanation of sand movement. Regarding Chapman Point, he believes that the dune grading at the presidential streets has had minimal impact, if any, on the dune growth to the north. In response to a question from Johnson, Horning discussed the differences between European beach grass and American beach grass. He stated that American beach grass does not function as well for sand control. The application is to plant European beach grass, but in the right areas and to remove any excess. Horning discussed other beach grass types. He noted that a more complicated plant assemblage could be achieved. In response to Johnson, Horning stated that the replanting will happen at the same time as the dune grading.

Chair Ogilvie called for proponents of the request.

Bruce Francis, PO Box 246, Cannon Beach, OR 97110, spoke in support of the application. He discussed Breakers Point sand management. He gave a detailed history of dune grass used at that location and the Army Corps of Engineers request to use European beach grass. In response to discussion on cross section profiles, Lundy asked Horning to address figure 4 and 5 of the August 25, 2014 report. Horning noted the 540 square foot requirement by FEMA, noting the significant amount of sand above that requirement.

Ken McQuahe, PO Box 283, Cannon Beach, OR 97110 gave a presentation stating that he is not against the management plan, however, believes there is an effect on sand dunes to the north that needs to be addressed. He stated that throwing out the whole management plan and redoing it is not a viable option. He suggested better communication between all sections performing dune grading. He recommended that Horning revise his report, recognizing that sand blows past Ecola Creek on to the dunes to the north. He also recommended that, post grading, the monitoring area be extended to include an area to the north. Lundy agreed with McQuahe that extended monitoring is needed.

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

Chair Ogilvie asked if there was a staff response. Barnes stated that McQuahe's testimony may affect condition 8 regarding annual monitoring.

Chair Ogilvie asked if the applicant wished to make an additional statement.

Francis stated that Breakers Point has had 5 shifting sand situations. Based on previous dune grading the association has changed their methodology and changed the process to have less of an impact.

Horning stated that expanding the area for the monitoring report will likely not produce accurate information. Natural processes will overwhelm the effect the dune grading may be having on other locations.

Hegrenes thanked the Planning Commission and the people that showed up to testify.

Chair Ogilvie closed the public hearing.

Motion: Lundy moved to approve the conditional use application with a request for staff to incorporate the substance of what Mr. McQuahe is requesting with the condition that we authorize a Committee representing relevant HOA and technical experts to evaluate the south to north effects of dune grading and that any study will be in the form of a pilot study to get an idea whether the scope of the effects warrant a longer term monitoring effort.

Bernt stated concerns regarding being able to accurately determine the effects of dune grading on other locations and sand movement. He does not see how a study will be able to address these questions.

Lundy stated that the Commission could add a condition that the pilot study may conclude that there is no possible way to accurately determine the effects.

Kerr stated concerns with basing any decision on outdated materials. In response to her concerns Barnes stated that there is an effort to update the document, however, it is not currently in the budget. He stated that the City responds to citizens concerns and the City Council had a positive response when approached about updating the management plan documents. Chair Ogilvie agreed with Kerr's concerns. Bernt stated that the Commission should be able to make a solid recommendation to the Council, not just a condition for this application. Barnes stated that the Commissioners concerns are noted and will be put forward to the Council.

Patrick seconded the motion.

Johnson stated that a study of a small area may not be conclusive and suggested a larger study from Silverpoint to Chapman Point. Bernt expressed concerns with attaching a condition to this request, noting that it is not the HOA's responsibility to fund a study and monitor the entire beach. In response to Commissioners discussion, Lundy requested that staff require monitoring reports, as stated in the current sand management plan. Patrick concurred with Bernt and suggested this be treated as two separate issues, with two separate motions.

Vote: Lundy, Bernt, and Patrick voted AYE; Johnson, Kerr, and Chair Ogilvie voted NAY; the vote was 3/3 and failed.

Chair Ogilvie agreed that it should be two separated issues.

Motion: Lundy moved to approve the condition use permit application with the eight (8) conditions noted in the staff report; Bernt seconded the motion.

Vote: Lundy, Bernt, Patrick, and Chair Ogilvie voted AYE; Johnson and Kerr voted NAY; the vote was 4/2 and the motion passed.

7:35 p.m. Commission Dewey rejoined the Commissioners at the dais.

The Commissioners held a discussion regarding outdated data on sand management and the City hiring a consultant to update the data and rework the current Background Report. As a result of discussion Barnes stated that the Council could direct staff to sort through the document and perform "housekeeping" and make it one cohesive document - to the other end, Council may direct staff to hire an expert to redo previous studies and redo the entire document. Kerr stated that the current plan states that it designed for a 10 year period and requires scientific review.

Motion: Johnson moved that a thorough scientific study of sand movement on the foredunes and oceanfront be done and that study would include whole scope of cannon beach, south end to north end; there was no second and the motion failed.

Barnes stated that he would insist that a draft scope of work come back to the Commissioners for approval. Lundy noted that the littoral cell reaches further south then the City's boundaries.

Motion: Kerr moved to update the sand management plan as is required; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(4) Public Hearing and Consideration of SR 14-06, Vonada Request for a Reduction of the Oceanfront Setback in Conjunction with the Demolition and Rebuild of an Existing Dwelling at 271 West Kenai Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report noting that the application is for an oceanfront setback reduction. Barnes noted the email from the applicant requesting a continuance. Barnes stated the 120 day rule for land use applications, noting that Vonada has granted the City a continuation of that deadline. A discussion followed on wether or not to open the public hearing now and what the advantages and disadvantages would be to the applicant and opponents. The Commission agreed to open the public hearing this evening.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

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

Chair Ogilvie called for opponents of the request.

Christian Zupanzick, 615 Broadway St Suite 216, Seaside OR 97138, testifying on behalf of his client, Fred Pain Jr., property owner to the south, gave a presentation on why the application should be denied. He noted three reasons for requesting a denial: possible erosion, view obstruction, and privacy. He gave additional detail regarding those three reasons.

Chair Ogilvie asked if there was a staff response. Barnes stated that the geological criteria is not applicable for this particular application. In response to a question from Lundy, Barnes stated that the applicant can remove vegetation on his own property, that would only possibly change as a result of a geological report.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Motion: Lundy moved to continue the public hearing, both oral and written, to the January 22, 2015 meeting; Patrick seconded the motion.

Bernt suggested closing the oral testimony portion of the hearing, as he feels it will give the applicant an advantage and the opponent will not get a fair chance to respond. Chair Ogilvie stated that he would like to see people not limited in testimony.

Vote: Dewey, Johnson, Kerr, Lundy, Patrick, and Ogilvie voted AYE; Bernt voted NAY; the vote was 6/1 in favor and the motion passed.

(5) Public Hearing and Consideration of SR 14-07, Jesse Request for a Reduction of the Front Yard Setback in Conjunction with the Construction of a Second Single Car Garage to an Existing Home at 860 Ecola Park Road

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report. He explained that the house is situated with the front of the dwelling facing north, however, the front yard for purposes of determining setbacks is to the east. He noted that the large area between the actual road and dwelling is the location of the Ash Street right-of-way and the Ecola Park Road right-of-way.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Daniel Jesse, 1389 Sea Ridge Lane, Gearhart OR 97138, represented the property owner, gave a presentation.

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

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

Chair Ogilvie asked if there was a staff response. In response to a question from Chair Ogilvie regarding an existing spruce tree located in front of the garage, Barnes stated that any tree that would need to be removed would be noted.

Chair Ogilvie asked if the applicant wished to make an additional statement. Jesse stated that the garage footprint has been moved slightly to the south from the original application to avoid removing the existing tree.

In response to a question from Bernt, Barnes confirmed that utilities are located in right away, not on the applicant's property.

Chair Ogilvie closed the public hearing.

Motion: Lundy moved to approve the setback reduction as presented; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(6) Public Comment and Consideration of the 2015 Parking and Traffic Management Plan

Barnes summarized his staff report. He noted input from Public Works and the Police Department.

Johnson recommended the elimination of the RV parking located in the parking lot west of City Hall. Grassick stated that those particular spots are used as a "relief valve" for RV's entering the City at the Sunset entrance. The Commissioners discussed RV parking and signage. In response to recommendations from Patrick, Grassick stated that he will relay the Commissioners concerns to Chief Schermerhorn. Grassick noted that the Cannon Beach Conference Center has plans to rebuild their dining hall. As a result of problems associated with delivery vehicles at that location, the City will be taking one large spot on the corner of 3rd and Spruce streets and turn it into a truck delivery spot from 6:00 a.m. to 12:00 p.m. The City will not be eliminating any spot but it will have an impact on conditions.

Motion: Kerr moved to recommend that the City Council adopt the 2015 Parking and Traffic Management Plan as presented; Lundy seconded the motion.

Johnson restated his recommendation to eliminate the RV parking west of City Hall.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

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

Patrick briefly stepped away from the meeting.

Motion: Lundy moved to authorize the chair to sign the appropriate orders; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy and Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

Patrick rejoined the meeting.

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

None at this time.

(9) Good of the Order

Ken Coykendall, PO Box 994, Cannon Beach OR 97110, 163 W Jackson Street, gave a presentation regarding a Design Review Board parking application submitted by CenturyLink. He gave a history of the site and the problems with parking. He noted that the business has "outgrown the area". He stated concerns with the application and how it would eliminate two on-street parking spaces for that street. He asked the Commissioners to be aware of the situation and help preserve the existing parking.

Joanne Cramer, PO Box 750, Cannon Beach, OR 97110, gave a presentation regarding CenturyLink parking. She gave a history of issues with CenturyLink employees parking. She noted additional concerns with the applicants request. She stated that the applicant has pulled their application, however, would like the Commissioners to keep the residential property owners' concerns in mind if an application comes before them. In response to a question from Chair Ogilvie, Cramer noted that CenturyLink's current parking plan has two off-street parking spaces.

ADJOURNMENT

The meeting adjourned at 9:36 p.m.

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Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Monday, December 22, 2014

Present: Chair Brandon Ogilvie, Vice Chair Bob Lundy; Commissioners, Joseph Bernt, Ryan Dewey, Hank Johnson, Lisa Kerr, and Janet Patrick

Excused: None

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

Chair Ogilvie called the meeting to order at 6:08 p.m.

ACTION ITEMS

(1) Approval of Agenda

Motion: Dewey moved to approve the agenda; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(2) Consideration of the Minutes of the Planning Commission Meeting of November 24, 2014

Motion: Kerr moved to approve the minutes as amended; Lundy seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(3) Public Hearing and Consideration of CU 14-07, a Conditional Use Request by the Breakers Point Homeowners Association for Dune Grading West and South of the Breakers Point Condominium Development

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.80.110, Conditional Uses, Overall use standard; Section 17.42.060.A.3, Specific standards, Foredune Grading; and Section 17.38.210.G, Flood Hazard Overlay Zone, Coastal high-hazard areas.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. Patrick noted that she is a home owner at Breakers Point. Patrick stepped down from the dais and sat in the audience.

As ex parte contacts, site visits were declared. Lundy noted he was in a meeting of the Ecola Creek Watershed Council. They discussed this application. Nothing was discussed that is not in the materials. He also had a brief conversation at a party with people expressing their views. He does not feel that these facts will bias his decision. Kerr stated that she was at the Ecola Creek Watershed Council meeting as well. She noted the concerns expressed were similar to those expressed in the materials presented.

Barnes summarized his staff report noting one correction: the proposal is for between 65,000 and 73,400 cubic yards. Barnes summarized his supplemental staff report regarding the Ecola Creek Estuary policies. He noted additional correspondence received for this application.

Chair Ogilvie asked if there was additional correspondence. Barnes noted all correspondence is in front of Commissioners at this time.

Chair Ogilvie 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;

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 Ogilvie asked if the applicant wished to make a presentation.

Bruce Francis, manager of the BPHOA, PO Box 246, Cannon Beach OR 97110, gave a presentation. He noted three additional persons associated with the application: Tom Horning, Doug Ray, and Dean Alterman. He addressed correspondence in opposition to the application, clarifying specific information. He noted a letter from Jennifer Bunch, Senior Planner for Clatsop County, stating that the City of Cannon Beach is fully responsible for the review of this application. He gave a detailed summary on how the dune grading will occur. He stated that BPHOA has had three conditional use permits approved in the past.

Francis gave a slide show presentation noting the following: the application is in agreement with the staff report; there has been severe erosion in the estuary, rip-rap could be placed but the applicants do not believe that would be conducive to wildlife and beach access; the 5th Street beach access will be addressed to allow emergency vehicle access; and in the past there has been "major blow outs of sand" caused by high dunes, causing severe inundation. In response to a question from Lundy, Francis clarified that it will be European beach grass used. In response to Kerr, Francis stated that Breakers Point began construction in 1978.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside OR 97138, noted that he is here to testify on behalf of the applicant. Horning gave a detailed powerpoint presentation and summarized his report. He emphasized erosion that has taken place in the Ecola Creek Estuary and the proximity to the subject property. He concluded that there is not enough new information available in the field to consider the City's sand management plan out of date.

Doug Ray, Carex Consulting, PO Box 441, Seaside OR 97138 gave testimony regarding the environmental and biological impact of the application, noting they are minimal, if any. He stated that the applicant has agreed to set aside a 100 foot fenced plot, to invest in a "test plot" for native plants and habitat. In response to Lundy, Ray discussed the differences in western and eastern American dude grass, and how each type of grass acts in this environment.

Dean Alterman, 805 SW Broadway #2750, Portland OR 97205, gave a presentation on behalf of the applicant. He noted that the current dune grading plan is still a good plan based on science and principles that have remained relatively unchanged since the implementation of the plan. In response to concerns from Kerr that the management plant states that it is supposed to be used for a ten (10) year period and then re-evaluated, Alterman noted that the ten (10) year plan was to serve as a time to evaluate if the plan is working, not to redo the plan. Kerr stated that perhaps the science has not changed but the scientific understanding of the environment and nature has changed. Johnson agreed that the area has changed significantly over the years and that should not be overlooked. Alerman agreed and stated that is why BPHOA is before the Commission at this time, to review their application for the property adjacent to their property. He agrees that the the specifics may have changed, however the scientific principles remain the same.

Chair Ogilvie called for proponents of the request.

Mark Twietmeyer PO Box 436, Cannon Beach, OR 97110, gave testimony in support of the application. He noted concerns with current dune height. He noted erosion and lack of emergency access.

Mike Blum #352 Breakers Point, PO Box 613 Cannon Beach, chairman of BPHOA, spoke as a representative of seventy (70) homeowners. He noted that the association has not received any complaints from neighboring property owners during and after the dune grading performed in the past.

Ed Stone owner at Breakers Point, 4540 NW Malhuer Ave., Portland OR 97229, gave testimony in support of the application. He presented photographs showing the view off the deck of his condo 34 years ago and views from

today, showing major dune growth and impacts on the view. He noted the dune height has grown forty six (46) feet in that time. He stated the BPHOA have been extremely responsible to neighbors in the past and will continue to be.

Ken McQuhae, PO Box 283, Cannon Beach, OR 97110, stated that he is not opposed to the application, however, does have concerns with the downwind consequences of the dune grading. He summarized his letter submitted to the Commissioners. He requested a condition be added if approved, addressing the downwind side for a period of time, perhaps with the use of sand fencing or temporary dune grass planting.

Fran Carey, 653 Breakers, PO Box 1284, Cannon Beach OR 97110, gave testimony in support of the application, noting the lack of beach access. Also noting sand encroachment on the deck and windows of her condo.

Chair Ogilvie called for opponents of the request.

Lisa Fraser, PO Box 5, Cannon Beach OR 97110, gave a presentation in opposition of the application. She presented a cardboard example of one cubic yard for reference. She gave a detailed presentation (see documentation in meeting record file). She noted the lack of monitoring reports, required by the management plan, the lack of clarity in the existing reports, and concerns regarding the large amount of sand removal proposed with this application. She concluded that if the management plan worked, why is the applicant here today.

Carol Bennett, 1419 S Jackson St., Studio 115, Seattle WA 98144 gave a presentation in opposition of the application. She noted technological advancements and the change in peoples perspectives regarding dune grading. She asked that dune grading in Cannon Beach be re-addressed. She read from a letter (see meeting record file). She stated concerns with the notification area, requesting that it be expanded.

Robin Risley, PO Box 950, Cannon Beach OR 97110, gave a statement in opposition of the application as a concerned realtor. She noted inconsistencies with FEMA flood maps. She stated that she spoke with FEMA and confirmed that new flood data will be released in the next year or two. She asked the Commission wait until then to base their decision on updated data. She also requested that everyone who may be affected by this application be notified.

Mike Manzuli, Chair of the Ecola Creek Watershed Council, PO Box 1281, Cannon Beach OR 97110, gave statements in opposition of the application, noting that this application is for a larger amount than previous applications by the applicant. He summarized the Ecola Creek Estuary plan component of the City's Comprehensive Plan. He stated that the plan does not allow sand placement within the estuary for view enhancement. He noted that other communities have suffered because of dune grading, the Jersey Shore being one example. He stated the the Watershed Council would be willing to help the City receive grants for funds to review the current sand management plan. In response to Lundy, Manzuli clarified which portion is considered the estuary.

Clay Newton, 3524 NE Klickitat St., Portland OR, a realtor, stated that he is not opposed to dune grading, however, he is a property rights advocate and is opposed to any development that is not researched and may affect other people and their property. He stated that he believes that applicants have put together a good team of people, and they have been considerate of neighbors. He read from a letter regarding the mandatory reporting (see meeting record file). He stated that he respectfully disagrees that the management plan is accurate and suggests that dune grading of this magnitude requires a better plan.

Jan Siebert Wahrmund, PO Box 778, Cannon Beach OR 97110, read a statement in opposition (see meeting record file). She noted concerns with the lack of monitoring reports. She also noted concerns with the scale of this specific application.

Susan Glarum, PO Box 108, Cannon Beach OR 97110, noted a letter dated December 18, 2014 from the Oregon Coast Alliance, stating that she was in agreement with the letter. Barnes and Gregory confirmed that the letter was not received by City Hall. A hard copy was given for the record. Glarum concluded that the dunes are vital to protecting property.

Jillayne Sorenson, PO Box 100, Cannon Beach OR 97110, asked that the public hearing be continued. She asked for further consideration of the intentions of the sand management plan. She would like the Commissioners to

consider denying this request. She concluded that there is no way of accurately knowing the impact of the requested volume of excavation, and that this proposal possibly impacts the community at large.

Clay Newton presented the letter from Oregon Coast Alliance (ORCA).

Tom Hunington, PO Box 1054 Cannon Beach OR 97110, on behalf of Mr. Jeff Harrison, read a letter by Harrison in opposition to the application (see meeting record file).

Jerome Arnold, PO Box 72, Cannon Beach OR 97110, asked for a continuation of the public hearing. He noted concerns based on the flood insurance study in March of 1978.

Stefan Henick-Kling, PO Box 36, gave statements in opposition of the application. He expressed concerns with BPHOA not having a more comprehensive far-sided plan. He suggested that what they are currently doing for sand management is not working, as it needs to be repeated every couple of years.

Chair Ogilvie asked if the applicant wished to make an additional statement.

Alterman made additional statements, arguing that just because the applicants have had to come back every couple of years, does not indicate that the plan is not working. He noted that it is working, as no additional riprap has been needed. He requested that the sand management plan be viewed as an over arching plan that is meant to cover Cannon Beach entirely.

Ray requested that the Planning Commission look at the bigger picture. He noted that if supplemental back fill is not done in the near future in the estuary, there will be extensive damage at Larch Street. He noted recent damage and erosion that has taken place recently as a result of winter storm events. He stated that emergency hard rock armory will need to be placed and that will have a negative effect on the estuary. He asked the Commissioners to consider that portion of the application as soon as possible.

The Commissioners discussed leaving the public hearing open.

Chair Ogilvie noted the the difficulty with reviewing written testimony that is submitted on the day of the hearing.

Barnes noted three options for the Commissioners: they can choose to close the oral portion of the hearing and leave the record open to written testimony, from the proponents, opponents, and rebuttal; can keep the hearing open like it is; or make a decision at tonight's meeting.

Bernt expressed concerns with the notification area. Barnes stated that the City met legal obligations with the notice, however, the notification area can be expanded.

The Commissioners discussed the urgency for a decision. Barnes stated the 120 day requirement. Johnson suggested that the erosion problem be addressed as one issue and the dune grading be addressed separately.

Motion: Lundy moved to continue the public hearing to January 22, 2015 in the Council Chambers at 6:00 p.m.; to broaden the hearing notice area; and require all written testimony to be submitted by January 15, 2015; Bernt seconded the motion.

Chair Ogilvie asked all the parties to please submit all written testimony by the 15th of January.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, and Chair Ogilvie voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

Patrick rejoined the Commissioners at the dais.

(4) Public Hearing and Consideration of CU 14-08, a Conditional Use Request by Haystack Gardens LLC for Development of a Three-unit Multi-family Residence in a Limited Commercial Zone at 148 East Gower Street

Chair Ogilvie introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.80.110, Conditional Uses, Overall use standard.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report noting this application will also be before the Design Review Board in January. Noted this will be the first application reviewed after the dark skies ordinance has been passed. In response to a question from Lundy regarding setbacks, Barnes noted that the Commercial (C-1) zone adjoins to Residential zone to the east and north. In response to Johnson, Barnes confirmed that access to the proposed units will be from the north and not off of Harrison Street. Also in response to Johnson, Barnes stated the the width requirement for a City street is 20 feet. The Commissioners discussed alleyways and applicable requirements with Barnes.

Chair Ogilvie asked if there was additional correspondence. Barnes stated there was no additional correspondence.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Mike Skidmore, 5309 22nd Avenue NW, Suite #B, Seattle WA 98107, the architect for the project, gave a presentation on behalf of the applicant. He noted the need for long term housing for Surfsand employees. He noted that the application meets all applicable criteria other than the conditional use permit needed to have a residential use in a commercial zone. He detailed the plan for access. He addressed the City's Comprehensive Plan and how this application provides employee housing as noted in the Plan. In response to Johnson, Skidmore confirmed that no additional development to the east is currently being considered. Johnson stated concerns with the property possibly being used as short-term rentals.

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

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

Chair asked for staff response. Staff had no additional remarks.

Chair Ogilvie asked if the applicant wished to make an additional statement. The applicant did not.

Chair Ogilvie closed the public hearing.

Lundy noted the benefit of increasing affordable housing in Cannon Beach. Chair Ogilvie stated concerns with the application noting possibly renting our units as short-term rentals. Barnes stated that the application is not for approving additional hotel units. The Commission and Barnes discussed short-term rental criteria.

Motion: Lundy moved to approve the application with the recommended conditions in the staff report; Bernt seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(5) Public Hearing and Consideration of PD 14-01, Request by KPFF Consulting Engineers and Jeff Nicholson for a Preliminary Approval for a Planned Development to Allow a Four-unit Single-family Residential Development at 532 N Laurel Street

-and-

Public Hearing and Consideration of V 14-06, Request by KPFF Consulting Engineers and Jeff Nicholson for a Variance to the Slope-Density Requirement to Allow a Four-unit Single-family Residential Development at 532 N Laurel Street

-and-

Public Hearing and Consideration of ZC 14-01, Request by KPFF Consulting Engineers and Jeff Nicholson for a Zone Map Amendment, Placing a Planned Development (PD) Overlay Zone on the Property at 532 N Laurel Street

Chair Ogilvie introduced the item, noting that the plan development request will be reviewed against the criteria of the Municipal Code, Section 17.40.050, Planned Development (PD) Zone, Permit criteria. The variance request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting. The zoning map amendment request will be reviewed against Municipal Code, Section 17.86.070 Amendments, criteria.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Ogilvie asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none.

As ex parte contacts, site visits were declared. Kerr noted she spoke with other people in the neighborhood, nothing was discussed that is not included in the packet.

Barnes gave a detailed summary of his staff report and slope density issues. He noted a correction in the staff report, the term "McMansion" should have been removed, as it was removed by the applicant in subsequent application materials.

Chair Ogilvie asked if there was additional correspondence. Barnes noted additional material, recommended 15th of January cut off for written testimony if continuing the hearing.

Barnes noted LUBA appeal on hold.

Chair Ogilvie 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; 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 Ogilvie asked if the applicant wished to make a presentation.

Jeff Nicholson, 25 NW 23rd Place, Suite 6-142, Portland OR 97210, gave a presentation. He noted concerns with maintaining the historical scale of the neighborhood. He noted that the only trees being removed will be in the location of a shared driveway. He stated that he wishes to salvage materials from the historic home currently on the property and rebuild it according to today's standards and building codes. He summarized the application process thus far, noting the City Council's concerns with setting precedence. Lundy noted difficulty being able to visualize where the homes will be located based on the materials given. In response to a question from Kerr, Nicholson stated that the only home located on a slope will be the one located on the north-east corner of the property.

Matt Dolan, KPFF Consulting Engineers, 115 SW Fifth Ave., Suite 2400, Portland OR 97204, the engineer for this project, gave a detailed power-point presentation. In response to Commissioners concerns, Dolan noted the geotechnical report stating the the soil is stable. The Commissioners and Dolan had a lengthy discussion regarding slope. Dolan stated that a geotechnical engineer will be retained during the entire building process. Lundy requested a more detailed visual of the home placements.

In response to a question from Nicholson, Barnes confirmed that there is no time limit on when the sites will need to be built. In response to Commissioners discussion, Nicholson stated that a Plan Development application does not require building plans for the lots. Nicholson reiterated that a geotechnical engineer as stated that the area is buildable. Johnson noted concerns with being asked to ignore that the 20,000 square foot lot does not meet the slope density requirement. In response to Kerr, Nicholson stated that the geotech report shows that the drainage will be better subsequent to this development then it is now. In response to a question from Bernt, Nicholson and Dolan noted the common areas and explained "common space" as it applies to a PD application. Nicholson stated that each building envelope will comply with City code, including setbacks. Dolan noted sheet C2.1 showing setbacks. Nicholson and Dolan reiterated the amount of engineering that has gone into the plans before the Commission. Kerr recommended a less dense option, as four houses may prove to be problematic due to slope. Nicholson asked to continue the hearing. Patrick suggested staking out the property and providing a 3D model showing elevations.

Chair Ogilvie called for proponents of the request.

Jane Harding, PO Box 1386, Cannon Beach OR 97110, spoke in favor of the application. She stated that she lives directly north of the property. Nicholson has explained the development in more detail to the neighbors. She noted that her property would be potentially the most effected by this application, and she is fully in support of it.

Chair Ogilvie called for opponents of the request.

Robin Risley, PO Box 950, Cannon Beach OR 97110, summarized Jeff Harrison's letter and his concerns. Asked to have the record held open.

Ken McQuhae, PO Box 283, Cannon Beach, OR 97110, stated that he is more inclined to be in favor of this application as opposed to the original development proposal by the applicant. He noted the goal is the same as before, to have four buildable lots, and for that reason he is in opposition of this request. He noted the plan development requirement of "common area", noting that this space shall be common outdoor living area. The proposed common area is located on a steep slope and therefore not conducive to outdoor living. He noted that without the common area this would be considered a subdivision request. He stated that he hopes that applicant persist and is successful, but is requesting more work be done. He recommended reducing from four to three homes. He noted the NE corner could be used as common area instead and would improve the proposal. He concluded that having defined areas for building envelopes would help answer some questions.

Chair Ogilvie asked if there was a staff response. Staff had no additional remarks.

Chair Ogilvie asked if the applicant wished to make an additional statement.

Motion: Lundy moved to continue the public hearing to January 22, 2015 in the Council Chambers at 6:00 p.m.; Kerr seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie 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: Bernt moved to authorize the chair to sign the appropriate orders; Patrick seconded the motion.

Vote: Bernt, Dewey, Johnson, Kerr, Lundy, Patrick, and Chair Ogilvie voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

Barnes presented Chair Ogilvie with a plaque and thanked him for his service on the Planning Commission. Barnes also introduced the new Commissioner: Charles Bennett.

(9) Good of the Order

Johnson addressed concerns with the last minute correspondence received. Barnes stated that he will talk to the City's land use attorney to see if the City can change the public hearing notice. Dewey suggested correspondence be received the Friday before each meeting.

ADJOURNMENT

The meeting adjourned at 10:30 p.m.

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Administrative Assistant Alisha Gregory