

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, January 22, 2015

Present: Commissioners Joseph Bernt, Charles Bennett, 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

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

ACTION ITEMS

(1) Approval of Agenda

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

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

(2) Introduction of New Commissioner, Charles Bennett

Vice-Chair introduced and welcomed Charles Bennett.

(3) Election of Chair and Vice Chair for 2015

Motion: Bernt moved to appoint Lundy as the Chair; Kerr seconded the motion.

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

Motion: Kerr moved to appoint Johnson as Vice-Chair; Dewey seconded the motion.

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

(4) Consideration of the Minutes of the Planning Commission Meeting of December 22, 2014

Motion: Dewey moved to approve the minutes as presented; Bernt 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. Bennett abstained from the vote as he was on the Commission at the December 22, 2014 meeting.

(5) Continuation of the 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 Lundy 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, Fore-dune Grading; and Section 17.38.210.G, Flood Hazard Overlay Zone, Coastal high-hazard areas.

As ex parte contacts, site visits were declared.

Barnes summarized his staff report noting that it is a compilation of the original staff report and supplemental staff report presented at the December 22, 2014 meeting. He noted new additional written testimony. An expanded public hearing notification was sent out per Commissioners request. He stated that the applicant can submit a modified proposal tonight, however, the change can not affect the notification area requirement. Barnes noted that Bennett was not on the Planning Commission for the December 22, 2014 hearing, however, he may participate if he states how he has been privy to the same information as the other Commissioners. Bennett stated that he was in attendance at the December 22, 2014 meeting and feels comfortable participating.

Chair Lundy asked if any Commissioner had any conflicts of interest to declare. Patrick stated that she is a home owner at Breakers Point. Patrick stepped down from the dais and sat in the audience.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence from Les Wierson.

Chair Lundy re-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.

In response to a question from Lundy, Barnes stated that the "120 day clock" for land use decisions expires on March 6, 2015. The Commission may consider a continuance if requested, however, they are not required to grant it.

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

Bruce Francis, manager of BPHOA, PO Box 246, Cannon Beach OR 97110, gave a presentation. Francis acknowledged the application team: Tom Horning, Dean Alterman, and Mike Morgan. Francis summarized the main opposition points from the December 22, 2014 testimony. He proposed several modifications to the original conditional use permit application. Sand will not be deposited into the Ecola Creek Estuary. Francis distributed a photo showing a gas line that services the north-end and it's proximity to the erosion in the Ecola Creek Estuary. BPHOA will be utilizing 17.80.230.J to place emergency rip-rap. He noted that the erosion is measuring seventeen (17) feet from the footing of building 45 at this time. 5th Street beach access will remain the same, instead of improved emergency access as originally proposed. The amended request consists of grading execution in five phases: spring and fall of 2015 and 2016, and spring of 2017. Each phase consisting of approximate 15,000 cubic yards of sand to be moved. The sand will be placed above the intertidal zone, in response to oppositions clamming concerns. After the first phase in the spring of 2015 a monitoring report will be completed to asses the revised plan, followed by monitoring reports after each phase. Francis noted similar dune grading in 2010 and no reported issues or opposition from any agency or neighboring property owners.

Tom Horning, Horning Geosciences, 808 26th Avenue, Seaside OR 97138, distributed an updated dune management report and sand volume calculations. Horning outlined the report in detail. In response to a question from Lundy, Horning gave a detailed summary of sand movement. In response to Kerr's comments regarding monitoring reports, Horning stated that the reports serve as historical documentation regarding the recovery of graded areas. Lundy noted opposition's concerns regarding the amount of sand movement being requested. Horning noted that once grading has taken place, reoccurring grading is required every five (5) to eight (8) years to maintain the dunes. In response to Bennett, Horning noted that the sand volume will be larger in the proposed deposition areas when compared to the previous requests due to the relatively smaller size of the deposition area.. The sand placed should be removed within six (6) months. Horning referred to figure 2 in his report. In response to a question from Bernt, Horning commented that he does not anticipate any negative effects to clamming with the new plan.

Dean Alterman, 805 SW Broadway #2750, Portland OR 97205, attorney for BPHOA, summarized his letter dated January 15, 2015. In response to comments from Kerr regarding the sand management plan, Alterman stated that

the City may want to address an update legislatively, however, at this time the decision should be based on the existing comprehensive plan.

Mike Morgan, PO Box 132, Cannon Beach OR 97110, stated that he worked closely with former City Planner Rainmar Bartl during the establishment of the sand management plan. He does not agree that it is incumbent on the applicant to initiate a legislative process to update said plan. He noted that when Breakers Point was built in 1979, the initial concerns were erosion. No consideration was given to the possibility of a forty-six (46) foot dune wrapping around the property. Morgan referenced a decision by the Department of Land Conservation and Development in the 1980's that changed a statewide planning goal to allow for dune grading - to preserve views and keep dunes from encroaching on property. He noted that Breakers Point has performed dune grading multiple times in the last fifteen (15) years, with no adverse environmental impacts. Morgan pointed out a ten (10) foot high wall of knotweed on the dune adjacent to Ocean Avenue in the Presidential Streets sand management area, and the generally positive impact dune grading has had there. Morgan stated that he believes dune grading would have a positive impact on recreational opportunities. Morgan stated that he does not believe this is an environmental issue. Kerr and Morgan had a lengthy discussion regarding the sand management plan. Morgan concluded that, in his opinion, the comprehensive plan's sand management element should be looked at, but that should not hold up this proposal.

Chair Lundy called for proponents of the request.

Mark Twietmeyer, 447 N Larch Street, PO 727, Cannon Beach, OR 97110, gave testimony in favor of the application.

Ed Stone, owner at Breakers Point, PO Box 247, Cannon Beach OR 97110, gave a power point presentation showing the change in dune height. Stone asked that the Commissioners consider the homeowners rights and the protection of their investment and views.

Ken McQuhae, PO Box 283, Cannon Beach, OR 97110, handed out and summarized his testimony to the Commission. He pointed out that the correspondence from ORCA in opposition was written by a lawyer, not a biologist or environmentalist.

Chair Lundy called for opponents of the request.

Jan Siebert Wahrmund, PO Box 778, Cannon Beach OR 97110, summarized her letter to the Commission. Wahrmund requested that the application be denied and that there be a moratorium placed on dune grading until the City Council reviews policies. In response to Wahrmund's concern with rip-rap being placed to address the erosion in the estuary, Lundy noted that it is not within the Commission's authority to deny emergency rip-rap placement.

Kerr noted that the rip-rap and the Ecola Creek issue is not before the Commissioners at this time.

Clay Newton, 3524 NE Klickitat St., Portland OR, thanked the Commissioners for their involvement in this issue. Newton stated that, in his opinion, the process is flawed. Newton stated concerns with the notification for this application. He stated concerns with the size of the proposal. He asked the Commissioners to deny the application and give the applicants an opportunity to re-submit a more reasonable proposal.

Carol Bennett, 1419 S Jackson St., Studio 115, Seattle WA 98144, noted concerns that a different proposal is being presented without notification. Bennett noted that the City requires an outside professional opinion for tree removal and maybe the same should be required for dune grading.

Jeff Harrison, 11445 NW Permian Dr, Portland OR 97229, gave testimony in opposition, noting concerns with the changes to the original proposal being presented tonight. He stated concerns with the amount of sand being dumped on clam beds and the corresponding clam mortality rate. Harrison summarized his letter to the Commissioners. Harrison stated concerns with the sand management plan being out of date. He disagrees with the assertion that no fishing and clamming is done in the proposed area.

Chair Lundy asked for staff response. Barnes stated that in regards to the concerns that the notification was flawed, the original notification was legal and the second notification sent out was greatly expanded. In response

to Bennett, Barnes stated that the rip-rap was not part of the proposal and can not be approved tonight. He explained that the emergency provision is not on the table to be considered as well. Regarding the amendments to the original proposal: the change in disposal area is within the scope of the original notice as no additional tax lots are involved and parsing out the excavation into phases could be determined to be within the scope as well. If the Commission wishes to have the applicant submit the new proposal for notification the 120 day land use clock will be effected. Johnson commented that the proposal is different from the original application. Bernt stated that staff went beyond the legal requirement to reach additional property owners. He stated that some land use issues do effect the community as a whole and go beyond the notification area.

Chair Lundy asked if the applicant wished to make any additional statements.

Alterman noted the revisions to the original application. He stated that the revisions are in response to oppositions concerns and testimony presented at the December 22, 2014 public hearing. He stated that it is against state law for the Planning Commission to adopt a moratorium on dune grading tonight. Alterman stated that if the Commission believes the proposal tonight differs too greatly from the original and would require a new application the applicants wish to use the original proposal for consideration.

The Commissioners discussed wether or not the proposal is significantly different and if a vote should be held tonight. Alterman stated that the applicants have responded to all comments made that were pertinent to the criteria.

Francis presented an exhibit showing a perviously approved application that included 7,210 cubic yards of sand approved to be placed in the estuary to stabilize the eroding bankline. He stated that only 4,000 cubic yards were placed at that location to stabilize even though they were allowed to place a larger amount. He stated that sand has been placed in the estuary for over 30 years to prevent the use of rip-rap. Francis stated that permits have been applied for jointly with the City and in the past has been allowed to be renewed. He stated that last year the City failed to submit required information to renew an existing permit and that has led to the need for a new conditional use application. Francis reiterated the fact that the erosion is greater than previously seen erosion at that location. He stated that the dune height has nothing to do with protecting the north end from severe flood inundation.

McQuhae stated concerns with some people's comments and behavior during the public hearing.

Chair Lundy closed the public hearing.

Kerr restated her concerns with considering a proposal based on an outdated sand management plan. Johnson stated that the application involves a public beach, the new proposal is more disruptive, and no monitoring has been completed. Johnson also noted that this application should be viewed as a new proposal.

Motion: Johnson moved to deny the application; Kerr seconded the motion.

Vote: Bennett, Bernt, Johnson, and Kerr voted AYE, Dewey and Chair Lundy voted NAY; the vote was 4/2 in favor and the motion passed.

Patrick rejoined the Commissioners at the dais.

(6) Continuation of the 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-

Continuation of the 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-

Continuation of the 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 Lundy introduced the item, noting that the planned 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.

As ex parte contacts, site visits were declared.

Barnes gave a summary of his staff report.

Chair Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. Bennett stated that he was in attendance at the December 22, 2014 meeting and feels comfortable participating.

Chair Lundy asked if there was additional correspondence. Barnes noted no additional correspondence.

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

Will Rasmussen, 111 S 5th Avenue Suite 3400, Portland OR 97204, noted the addition of a tree preservation plan. Rasmussen introduced geotechnical engineer Ron Rondema, architect Jay Orloff, and engineer Matt Dolan. Rasmussen gave a summary of previous applications to the City, and the purpose of this proposal. He stated the the interpretation of the development permit application has been appealed to the Land Use Board of Appeals (LUBA) but has been stayed for mediation.

Jeff Nicholson, 25 NW 23rd Place, Suite 6-142, Portland OR 97210, presented a 3-D model made using 60,000 data points. Nicholson gave a detailed presentation, noting that most of the homes in that area do not meet slope requirements.

Matt Dolan, KPFF Consulting Engineers, 115 SW Fifth Avenue, Suite 2400, Portland OR 97204, gave a presentation regarding slope and layout in respect to contours, referencing sheet 7.4 of the application.

Don Rondema, 1112 7th Street, Oregon City OR 97045, geotechnical engineer, described his experience and summarized his report. He gave a detailed summary of the site, noting favorable soil conditions. In response to questions from Lundy, Rondema explained the engineering behind the proposed foundations. In response to Kerr regarding homes on steep slopes, Rondema stated that a 7,000 square foot home was built in 2007 in that area. In response to a question, Barnes clarified that the city can request a geotechnical report from the applicant as part of the building permit review process..

Jay Orloff, PO Box 851, Cannon Beach OR 97110, described his experience. He stated that there are no architectural reasons precluding this project. He would not recommend a large home that could be placed there per the code. Orloff distributed exhibit C7.6 showing conceptual architectural rendering, slope, and easements. He reviewed sheet C7.3 in the packet regarding tree preservation and enhancement of the existing site with native vegetation. In response to a question from Lundy, Orloff stated that driveway access to the northeast site will be off of Laurel Street.

In response to Commissioner discussion, Rasmussen stated that the Commissioner's decision does not set legal precedent. This application is for a specific site that does not exist elsewhere. He noted that if the LUBA appeal moves forward then precedent would be set. In response to a question from Johnson, retaining wall specifics were noted. In response to questions from Kerr, regarding plan development criteria, Rasmussen stated that the criteria has been met, per the staff report. In response to a question from Kerr regarding the slope density rule, Rasmussen stated that the applicants have received input from the Mayor, the City's land use council, and staff, to avoid "poking a hole" in the code. Rasmussen and Kerr discussed City code at length. Rasmussen explained reasoning behind proposing four lots. In response to questions from Bernt, Rasmussen noted outdoor living area, stating the "outdoor living area" is not defined in the code. Bernt and Rasmussen discussed outdoor space. In response to a question from Kerr, Rasmussen stated that avoiding a LUBA appeal would avoid setting hard precedent. Kerr noted concerns regarding letters of support previously submitted by proponents that are under the impression that the existing dwelling will be rehabilitated. The proposal calls for the deconstruction and reconstruction of the existing dwelling. Nicholson stated that proponents are aware of the planned deconstruction and reconstruction. He added that it would be impossible to bring the existing dwelling to code without deconstructing it. Rasmussen stated that the applicant will get new letters of support between now and the February 10, 2015 City Council public hearing. In response to a question from Bernt, Nicholson stated that there are no immediate plans for two of the four lots.

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

Chair Lundy called for opponents of the request.

Jeff Harrison, 11445 NW Permian Dr, Portland OR 97229, property owner at 539 N Laurel, stated that his property will potentially be impacted by the application. He gave testimony in opposition. He noted concerns regarding root damage to existing trees, the paving of Laurel street, density increase, drainage, and possible rental activity. Harrison stated concerns with whether or not the application meets the plan development criteria. Harrison read from a Cannon Beach Gazette article, highlighting concerns.

Dale Hintz, PO Box 712, Cannon Beach OR 97110, property owner at 571 Laurel, gave testimony in opposition, noting concerns with the proposed retaining walls, proposed tree removal, and the possibility of impacting adjacent dwelling foundations. Hintz stated that he disagrees that the proposal fits within the aesthetics of the neighborhood.

Cleve Rooper, PO Box 652, Cannon Beach OR 97110, stated that he is not entirely sure he is an opponent, but he does have concerns. His concerns pertain to possible rental activity and "motel traffic". He would prefer to see one single home on the lot.

Harrison added to his testimony, stating that he would prefer to see one single home on the lot as well.

Robin Risley, PO Box 950, Cannon Beach, OR 97110, stated that should would also prefer one single home on the lot.

Chair Lundy asked for staff response. In response to concerns noted by Kerr, Barnes stated that there is nothing unusual about discussions between applicants and staff when a proposal is being prepared.

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

Rasmussen went into further detail regarding tree removal, noting that with the tree retention plan, there will be more trees than surrounding properties. He noted that the density is possibly less than other development in the area. He stated that the proposal is not intended for rental dwellings.

Johnson stated concerns with the retaining wall and feels that it does not fit into a residential setting. He also noted that if the street needs to be improved, paving and curb would cut into the roots of existing sitka spruce trees and the complexity of the neighborhood would be changed.

Kerr restated her concerns regarding the plan development criteria not being met.

Motion: Johnson moved to recommend denial of PD 14-01, V 14-06, and ZC 14-01 to the City Council; Kerr seconded the motion.

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

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

Motion: Johnson moved to authorize the Chair to sign the appropriate orders; Patrick seconded the motion.

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

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

There were none.

(9) Good of the Order

There were none.

ADJOURNMENT

The meeting adjourned at 10:30 p.m.

Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, February 26, 2015

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, Ryan Dewey, Lisa Kerr, and Janet Patrick

Excused: Commissioner Hank Johnson

Staff: City Planner Mark Barnes and Administrative Assistant Alisha Gregory

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bennett, Bernt, Dewey, 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 January 22, 2015

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

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

(3) Public Hearing and Consideration of CU 15-01, Request by Kirby Blankenship on Behalf of the Hallmark Resort for a Conditional Use permit to Allow the Placement of Rip-Rap at 1400 S Hemlock Street

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of Municipal Code, Section 17.20.030.H Conditional uses permitted and Section 17.80.230 Shoreline stabilization.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. 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. He stated that work will take place landward of the vegetation line, as defined by the Oregon State Plane Coordinate System, therefore no additional State Parks criteria apply to this application. Barnes noted that the applicant is proposing to place rock, bury it, and then replant the area. He stated that the application, like all riprap proposals, has been designed with the aid of a geotechnical engineer.

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

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.

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

Don Rondema, Geotech Solutions, 1112 7th Street, Oregon City, OR 97045, representing the applicant, gave a presentation, describing the project in detail. In response to a question from Bernt, Rondema noted the damage caused by the damaged pipe. In response to a question from Kerr, Rondema stated that he is recommending pit run crushed rock.

Chair Lundy called for proponents of the request.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, noted that the staff report states that all the criteria for this application has been met. He stated that every resident should have the right to protect their property.

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

Chair Lundy asked for staff response. Barnes stated that the definition of riprap in the City's Municipal Code is broad enough to include the type of rock proposed in this application.

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

Chair Lundy closed the public hearing.

Motion: Bernt moved to approve the conditional use request as presented; Bennett seconded the motion.

Dewey had an additional question regarding vegetation.

Lundy reopened the hearing to allow answering of Dewey's question.

Bill Allred, PO Box 1747 Lake Oswego 97035, part of the ownership, noted they will be sourcing sallah and blackberries and the repairs will look exactly like the rest of the bank. He noted that it may take a year or so to look exactly how it does now.

Lundy re-closed the hearing.

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

(4) Public Hearing and Consideration of SR 15-01, Request by Dr. Roof Inc. on Behalf of the Owner, Mark Fisher, for a Front yard Setback Reduction to Enclose an Existing Deck at 656 Ecola Park Road

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of 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 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 the application is missing some information so it is unknown if all the criteria have been met. The Commission discussed the existing deck.

Chair Lundy asked if there was additional correspondence. Barnes noted a letter in opposition from an adjacent property owner that was included in the Commissioner's packets and stated that there was no additional correspondence.

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.

Chair Lundy asked if the applicant wished to make a presentation. The applicant was not present.

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

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

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

Chair Lundy asked if the applicant wished to make any additional statements. The applicant was not present.

Chair Lundy closed the public hearing.

Barnes referred the Commission to the property owner's email regarding the existing deck. In response to discussion, Barnes noted that Ecola Park Road has a very wide right-of-way. In response to Kerr, Barnes stated that the application met the City's "completeness standards". He noted that the Commission may choose to continue the public hearing and direct staff to urge the applicant to attend in order to answer questions, or deny the application and require the applicant to present a more complete application. The Commission may choose to deny or approve the application currently being presented.

Motion: Dewey moved to continue the public hearing to March 26, 2015 with the recommendation that staff encourages the applicant to be present; Kerr seconded the motion.

Patrick asked if it would be possible to ask for additional information from the opponent as well. Barnes noted that the applicant and parties of record can be notified of the continuation of the public hearing and the additional information being requested.

Vote: Bennett, Dewey, Kerr, Lundy, and Patrick voted AYE, Bernt voted NAY; the vote was 5/1 in favor and the motion passed.

(5) Public Hearing and Consideration of OSP 15-01 and SR 15-02, Request by O'Brien & Co. on Behalf of the Owner, Matthew Gillis, for a Parking Variance and Setback Reduction in Conjunction with the Demolition and Rebuild of an Existing Dwelling at 231 W Siuslaw Street

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of Municipal Code, Chapter 17.64, Setback Reduction and 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 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 the off-street parking variance will be subject to Municipal Code, 17.84.040 A1 - A3. Barnes addressed the uniqueness of the property. He noted that the municipal code allows a building permit for remodels less than 50% of the value of the structure over a three year period. With this option the applicant would not need a variance. The applicant choose to present the application to the Commission in order to demolish the current home and rebuild. Barnes noted concerns with the existing eight foot alley way that provides access to this and four other properties. Barnes stated that a prior application to the City went over the roof height allowed by code, however, this application complies with the building height and does not require a

height variance. In response to Kerr, Barnes stated that the application is for a reduction in the east “front yard” setback and not the oceanside. Barnes stated that the setback reduction request and the off-street parking variance request will require separate motions.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence presented at the dais.

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.

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

Vito Cerelli 31897 Maxwell Lane, Arch Cape OR 97102, representing the owner Mathew Gillis, gave a presentation. Cerelli noted that all five properties located off the alleyway are nonconforming and offer substandard parking. He noted the nonconforming issues for each property located off the alleyway access. He stated that the view corridors will be improved and better fire/life safety access will be provided with the reconstruction of the home. The existing dwelling is located on cinderblocks and has several construction issues. The new home will be brought into conformance with current code. In response to a question from Kerr regarding the roof overhangs encroaching the oceanside setback, Cerelli clarified that the setback is measured from the foundation and the home will meet oceanside setback requirements. In response to a question from Lundy regarding parking, Cerelli noted the parking diagram presented. To add parking would add to congestion on the narrow alleyway and possibly cause safety issues. Multiple parking solutions were looked at, however, none of them proved to be very safe. It was determined by Cerelli and the property owner to ask to maintain the current zero off-street parking plan.

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

Chair Lundy called for opponents of the request.

David Vonada, PO Box 648 Tolovana Park, OR 97145, representing property owners Fitzpatrick and Bittler, noted concerns with impacts on view and solar access. Vonada stated that the applicant has not provided a view study or solar study in the proposal. In response to a question from Kerr, Vonada stated that privacy and solar access would not be impacted specifically with the granting of the east-yard setback. Kerr noted that if the applicant wished to apply for a building permit, a second story could be built and the same issues would exist for the neighbors.

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

Chair Lundy asked if the applicant wished to make any additional statements.

Cerelli reiterated the fact that all five lots off the alleyway are nonconforming. He referred to application materials showing that views will be improved by the reconstruction, as the north and south yard will be brought into conformance. Regarding solar access, Cerelli noted that the adjacent home is located two and a half feet from the property line and the existing home impacts solar access as is. Regarding off-street parking, Cerelli restated safety concerns and noted that in order for the property owner to back out, they will need to cross over existing property lines in order to safely maneuver out of the parking space.

Chair Lundy closed the public hearing.

Patrick noted concerns with lack of parking on the site, noting that a minimum of two spaces are required based on the number of bedrooms. She noted concerns that adjacent W Siuslaw Street will not be able to accommodate

additional on-street parking. Kerr noted safety concerns with providing off-street parking on the existing narrow lot. Kerr expressed sympathy for the adjacent property owners, however, the neighbors concerns will exist regardless if the setbacks are met. Bernt noted that the City's Municipal Code makes it very difficult to build much of a house on a lot this size. Commissioners discussed the applicant's options. Bennett agreed with Kerr, a second story can be built regardless. He expressed concerns with parking, noting that a new dwelling is required to provide off-street parking, however that may not be possible with this lot.

Consideration of OSP 15-01

Motion: Bernt moved to deny OSP 15-01; Patrick seconded the motion.

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

Motion: Bernt moved to approve OSP 15-01; Kerr seconded the motion.

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

Consideration of SR 15-02

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

Dewey noted that if adjacent property owners put up a fence on their property the off-street parking would become nonviable. Kerr expressed concerns with off-street parking causing safety issues in regards to use of the alley. Bernt stated that off-street parking may be required but that does not mean it needs to be used. Commissioners discussed possible parking at length. The correlation between the setback request and the off-street parking request was discussed as well. Dewey reiterated that fact that the property owner would be able to make improvements to the dwelling, including a second story, through a building permit over a longer period of time.

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

Continued consideration of OSP 15-01

In response to a question from Lundy, Barnes stated a variance for one off-street parking spot can be approved if the Commission so chooses.

Motion: Kerr moved to approve a parking variance allowing one off-street parking space; Bernt second the motion.

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

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

Motion: Kerr moved to authorize the Chair to sign the appropriate orders; Patrick seconded the motion.

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

INFORMATIONAL ITEMS

(7) Ongoing Planning Items

There were none.

(8) Oregon Ethics Commission Statement of Economic Interest (SEI)

Barnes noted each Commissioner will be receiving a SEI. He noted the importance of the document and if any Commissioners have any concerns they can speak with Colleen Riggs. She can direct them to helpful resources.

(9) Good of the Order

Fred Lorish thanked the Commission for all their work on regarding the Nicholson project. He expressed concerns with the City Council not following the Planning Commission's recommendation to deny the applications. He expressed procedural concerns. Barnes clarified that the City Council did hold an open public hearing regarding the applications before a decision was made.

Dewey suggested a more comprehensive definition of "riprap" in the City's code. Barnes stated that he will look into if the City is bound by State code or if the City's code can re-define the term.

Lundy noted an article in the Daily Astorian regarding local law makers and land use rules. Clatsop County may be exempt under that rule. Lundy will email the Commissioners a link to the article for their information.

Barnes noted a packet of correspondence regarding the Nicholson applications at the dais for the Commissioners. The correspondence is for information only as a courtesy, as the public record has been closed. In response to a question from Kerr, Barnes stated that the Land Use Board of Appeals (LUBA) would be the next step for any appeal on the Nicholson decision.

ADJOURNMENT

The meeting adjourned at 7:56 p.m.

Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, March 26, 2015

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, Ryan Dewey, Hank Johnson, and Lisa Kerr

Excused: Commissioner Janet Patrick

Staff: City Planner Mark Barnes

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bennett, Bernt, Dewey, Johnson, and Lundy 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 February 26, 2015

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

Vote: Bennett, Bernt, Dewey, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed unanimously. Johnson abstained as he was not present for the February 26, 2015 meeting.

(3) Continuation of the Public Hearing and Consideration of SR 15-01, Request by Dr. Roof Inc. on Behalf of the Owner, Mark Fisher, for a Front Yard Setback Reduction to Enclose an Existing Deck at 656 Ecola Park Road

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of 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 Lundy asked if any Commissioner had changes to possible conflicts of interest or personal bias since the February 26th hearing. There were none.

6:02 Commissioner Kerr joined the meeting.

Chair Lundy asked Kerr if she had any changes to possible conflicts of interest or personal bias since the February 26th hearing. She did not.

Chair Lundy asked if any Commissioner had any ex parte contacts or made a site visit since the February 26th hearing. Site visits were declared.

Barnes summarized his staff report. He noted that the Commission had directed staff to reach out to the applicant and parties of record regarding the continuation of the hearing and consideration. A copy of that correspondence is included in the Commissioners meeting materials. Correspondence from the owner is included as well.

Chair Lundy asked if there was additional correspondence. Barnes stated that there was no additional correspondence other than those noted above.

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.

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

Clay Brasket, PO Box 187 Seaview WA 98631, project manager for Dr. Roof, representing the property owners and the applicant. In response to a question from Dewey, Brasket noted that the owners looked at adding on to the home elsewhere to remain compliant to setback requirements, however, wetlands are located to the north and west. South of the building the lot line is not standard. The owners and applicant believed enclosing the deck would be the best option. In response to a question from Kerr, Brasket confirmed that they will be enclosing the deck to make an additional room. Lundy stated that he believes the application to be a viable option, however, he did state that setbacks are put in the code for a reason. Brasket stated that when the owners initiated the process with Dr. Roof they believed the deck was compliant with the required setbacks. Brasket contacted a surveyor and confirmed setbacks. The Commissioners discussed the current deck location in respect to the setbacks. Decks 30" and below are allowed to encroach on the setback. The Commissioners discussed the pre-existing deck in detail, including the railing, which is over the 30" above grade and therefore nonconforming.

Barnes reviewed code requirements for decks. Dewey noted that he does not see the proposed construction impeding on any views. In response to a question from Bernt, Brasket stated that the current deck is on stilts. The deck will be transferred to a post and beam and footing if necessary. Brasket noted drainage issues and stated that the gutter on the south side of the home will be brought all the way around to allow water to drain into the existing drainage system. In response to Bernt, Brasket noted that architectural drawings are currently not available. The sketch in front of the Commissioners is what is available at this time. Also in response to Bernt, Brasket noted that the roof will be at a maximum eight inch overhang. The Commissioners discussed the concerns noted in correspondence from the neighbor, Jean Wegener. The Commissioners felt that views would not be impeded. Brasket noted that there will be full visibility from the driveway. Kerr stated that given the wetlands around the existing home, this option allows the least amount of impact. In response to Dewey, Brasket noted that the trim package and siding will be the same as the existing home.

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

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

Chair Lundy asked for staff response. Barnes clarified that the Wegener property is located on the adjacent lot to the north of the subject property. Regarding the wetlands, wetland criteria is applicable and noted in the staff report. In response to Kerr, Barnes noted that there is vegetation between the two homes.

Chair Lundy asked if the applicant wished to make any additional statements. Brasket thanked the Commissioners for continuing the hearing from the March meeting so he could be present.

Chair Lundy closed the public hearing.

Motion: Bernt moved to approve the application as presented; Kerr seconded the motion.

Vote: Bennett, Bernt, Dewey, and Kerr, voted AYE; Johnson and Lundy voted NAY; the vote was 4/2 in favor and the motion passed.

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

Motion: Dewey moved to authorize the Chair to sign the appropriate orders; Bennett seconded the motion.

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

INFORMATIONAL ITEMS

(5) Ongoing Planning Items

There were none.

(6) Good of the Order

In response to a question from Kerr, Barnes stated that Breakers Point Homeowners Association (BPHOA) has appealed to the Land Use Board of Appeals (LUBA). Barnes explained the LUBA process. The Commissioners discussed the Breakers Point Home Owners Association conditional use application in detail. In response to Kerr, Barnes stated that no one has filed with LUBA regarding the Nicholson decision as of today.

In response to a question from Johnson regarding the continuation of the Dr. Roof application, the Commissioners summarized their reasons for continuing the hearing to April in detail. The Commissioners discussed the appropriate actions to be taken if no party involved with a land use application shows up to the a hearing. Johnson noted concerns with the application and the drawing received. In response to Commissioner's concerns with the approval motion, Barnes stated that the basis of the approval clearly included the trim package and siding would be the same as stated by the applicant.

Johnson noted concerns that the March minutes did not reflect the reasoning behind the Commissioners decision to continue the hearing.

In response to a question from Bernt regarding Breakers Point, Barnes stated that the City has only received a notice of intent to appeal at this time. If does not outline their objections. Barnes will keep the commissioners informed of any additional information as it becomes available.

Kerr led a discussion regarding the BPHOA and Nicholson applications. Barnes clarified that if the Council would have re-opened the public hearing for more testimony, it would have opened the hearing for Nicholson and his lawyers as well. The Commissioners discussed public testimony and the right for public input.

ADJOURNMENT

The meeting adjourned at 6:45 p.m.

Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, April 23, 2015

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

Excused: Commissioner Lisa Kerr

Staff: City Planner Mark Barnes, Administrative Assistant Jennifer Barrett

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

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

(2) Consideration of the Minutes of the Planning Commission Meeting of March 26, 2015

Motion: Bernt moved to approve the minutes as amended; Bennett seconded the motion.

Vote: Bennett, Bernt, Dewey, Johnson and Lundy voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Patrick abstained as she was not present for the March 26, 2015 meeting.

(3) Public Hearing and Consideration of SV 15-01, Request by the City of Cannon Beach for a Sign Variance to Permit the Placement of Two Interpretive Signs Along an Existing Pedestrian Trail Located in NeCus' Park

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of Municipal Code, Section 17.56.070, Signs, Variances.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time.

Chair Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. Chair Lundy stated a personal bias due to him voting for the Ecola Creek Awareness Project to donate funding to the Clatsop Nehalem tribe to fund signage. Chair Lundy recused himself and stepped down into the audience.

Commissioner Johnson asked if any Commissioner had any ex parte contacts or made a site visit. Site visits were declared.

Barnes summarized his staff report. Barnes noted if the Commission approves the sign variance the sign will then go to Design Review Board. A discussion ensued regarding the locations of the proposed signs. Barnes added the Commission is to base their decision making process on the three criteria, and to only use the content of the sign if it helps make a decision about the criteria.

Commissioner Johnson asked if there was additional correspondence. Barnes stated that there was no additional correspondence.

Commissioner 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.

Commissioner Johnson asked if the applicant wished to make a presentation.

Dan Grassick, City of Cannon Beach Public Works Director, PO Box 368, Cannon Beach, OR 97110
Grassick noted the request is to install 2 interpretive signs along the trail, adding the variance is needed since the site already has one free standing sign. Grassick described the proposed content and potential locations of the additional signs noting the location is subject to change with the additional of the NeCus' Master Plan and the content is pending approval. A discussion about the locations of the sign ensued.

Barb Knop, PO Box 658, Cannon Beach, OR 97110
Knop stated an artist has not yet been selected as stated in the staff report, and they continue to work with the tribe on the sign.

Bob Lundy, PO Box 1357, Cannon Beach, OR 97110
Lundy spoke in favor of the variance noting, the first condition is identical to the Lagoon Trail as stated in the application. Lundy noted on page 2 of staff report the reference to Whale Park should be Les Shirley.

Jan Siebert Wahrmond, PO Box 778, Cannon Beach, OR 97110
Siebert Wahrmond spoke in favor of the variance noting she is a part of the Ecola Creek Awareness Project who donated \$1,000 to the project. Siebert Wahrmond noted she has seen a lot of people using the trail since the NeCus' sign was been installed.

Commissioner Johnson called for proponents of the request. There were none.

Commissioner Johnson called for opponents of the request. There were none.

Commissioner Johnson asked for staff response. No staff response.

Commissioner Johnson asked if the applicant wished to make any additional statements.

Commissioner Johnson closed the public hearing.

Motion: Dewey moved to approve the application as presented with corrections on staff report to Les Shirley Park, and designer to be determined; Bennett seconded the motion.

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

(4) Authorization for the Vice Chair to Sign the Appropriate Orders

Motion: Dewey moved to authorize the Vice Chair to sign the appropriate orders; Bernt seconded the motion.

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

INFORMATIONAL ITEMS

(5) Tree Removal Permits

Lundy requested the Commission to receive the tree removal permit log on a regular basis. Barnes added it will be included each month in the future. Lundy asked if the Commission could get more information, such as address. Barnes will have the additional information included.

(6) Ongoing Planning Items

Barnes noted the record for the Nicholson appeal to LUBA has been submitted and is in the appeal period. The Breakers Point record has also been submitted to LUBA and is in the appeal period. Neither have had a hearing date set. A discussion ensued regarding LUBA time frames.

(7) Good of the Order

No Report

ADJOURNMENT

The meeting adjourned at 6:40 p.m.

Administrative Assistant Jennifer Barrett

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, May 28, 2015

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, Ryan Dewey, Lisa Kerr, and Janet Patrick

Excused: Commissioner Hank Johnson

Staff: City Planner Mark Barnes, Administrative Assistant Alisha Gregory

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bennett, Bernt, Dewey, Kerr, Patrick, and Lundy 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 April 23, 2015

Chair Lundy noted corrections.

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

Vote: Bennett, Bernt, Dewey, Patrick and Lundy voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Kerr abstained as she was not present for the April 23, 2015 meeting.

(3) Public Hearing and Consideration of CU 15-02, Cannon Beach Academy Request for a Conditional Use Permit to Allow a Temporary Location for the Cannon Beach Academy Charter School at 171 Sunset

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of 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 Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. Dewey noted that he has donated money toward the Charter School. Dewey recused himself, stepping down from the dais and joining the audience. Chair Lundy asked if any Commissioner had any ex parte contacts or made a site visit. Site visits were declared.

Barnes summarized his staff report noting that the Planning Commission will have to determine first, whether the phrase "government structure or use" includes a public school; and second, whether a public charter school is a public school. Public schools are not listed at conditional uses for this zone, however, schools are noted as conditional uses in other zones. This may just be due to an error in drafting. No substantial changes to the building will take place. There will likely be some exterior changes after speaking with the building department. Applications that may require planning and design review approval always go to the Planning Commission first. Barnes stated that the site is outside of the tsunami inundation zone as shown on the 1995 DOGAMI; and within the inundation area as mapped in 2013 by DOGAMI. For building code regulatory purposes, it's the 1995 map that's used for this determination.

In response to Chair Lundy, Barnes stated that there has been no prior decisions in regards to a public school being considered a government entity, and the previous school was built prior to the zoning code. The Cannon Beach Children's Center and Preschool is categorized as a child care facility, not a "school". Kerr stated that

under existing state law a charter school is considered to be a special government body. Barnes concluded that no hard precedent has been set with previous land use decisions in regards to schools. Bernt asked that paragraph 4 under 17.80.110.A: Conditional use criteria (page 3 of the staff report) be reworded to: There are no other schools in Cannon Beach serving the K-5 population.

Chair Lundy asked if there was additional correspondence. Barnes stated that there was no additional correspondence other than what was included in the packet materials.

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.

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

Ryan Hull, Cannon Beach Charter School, PO Box 11, Cannon Beach OR 97110, President of the Board of Directors for the Cannon Beach Academy noted the Board and Committee members present in the audience. He reviewed their work done to find a suitable temporary location until the Southwind site becomes available.

David Vonada, Tolovana Architects, PO Box 648, Tolovana Park 97145, presented revised plans with additional details. He restated that this site is a temporary location for the school. The revised plans show pick-up and drop-off locations and a safe/natural route for children to follow. Other changes noted: fenced gate has been added, and relocation of refuse area. Vonada noted modifications to enhance safety to the play area. Vonada has met with Building Official Bob Mitchell and the Fire Marshall. He noted additional fire/life safety modifications to the interior of the building. He also noted that, in the future, if any existing tenants to the west vacate the school can be enlarged and the northwest parking lot could be converted to a play area.

Hull clarified that the academy is not looking to push out current retailers, the future plans are only if they vacate. In response to a question from Bennett, Hull stated that the academy has an application in with the school district and has a goal to open September 2016. In response to a question from Patrick, Hull stated that the academy has signed a letter of intent with the property owner and has been guaranteed that the property will remain available to the academy as long as things are progressing. The academy does not have a set date for charter approval or denial. Hull stated that the charter has eighty-five (85) spaces available for students and have received seventy-two (72) letters of intent. In response to a question regarding classroom size, Hull stated that the K-1st grade room is larger, as they anticipate a larger number of initial enrollees for this grade level.

Chair Lundy called for proponents of the request.

Kevin Widener, PO 735 Tolovana Park 97145 spoke in favor of the conditional use, stating that it appears to meet criteria and would be a good fit.

Lundy asked the audience for a show of hands of those present in support of the charter school receiving a conditional use permit - fourteen (14) supporters were counted.

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

Chair Lundy asked for staff response. Barnes clarified the use of “demand exists” under the criteria for a conditional use permit.

Chair Lundy asked if the applicant wished to make any additional statements. The applicant did not.

Tracy Abel, PO Box 1237 Cannon Beach OR 97110 stated that she believes there is a need for a school in the community, and noted the people that have worked hard to get a school in Cannon Beach.

Chair Lundy closed the public hearing.

Kerr stated that she believes the application meets all the criteria and that state law clearly states that a charter school is a government body. Patrick stated that the only concern she has is that parking may be an issue during special school events. Kerr noted that parking has always been an issue for schools and that parking on adjacent streets would alleviate that. Bernt noted concerns with the size of the play area. Kerr noted that design of the school is not within the purview of the Commission. Bernt stated that his concerns are not design related but rather is this the appropriate space for this use. Lundy noted that once the area is cleared out it will provide more room and that no state requirement exists that regulate how much play ground space a school must have. Bennett agreed that the criteria has been met, and noted that it has proven to be difficult to find the “perfect space” for a school. Lundy stated that the location is accessible.

Motion: Kerr moved to approve the application as presented; Patrick seconded the motion.

Barnes said that he understood the motion to include the additions presented at this meeting; and that additional changes it may need to come back to the Planning Commission at a future date. The Commissioners concurred.

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

Dewey rejoined the dais.

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

Motion: Kerr moved to authorize the Chair to sign the appropriate orders; Patrick seconded the motion.

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

INFORMATIONAL ITEMS

(5) Tree Removal Permits

Barnes noted the tree removal permit report in the Commissioners packets, covering the calendar month of April. In response to Lundy, Barnes clarified that the City code required the Planning Commission receive a monthly report. In the past this was not always done, but the Commissioners can anticipate the monthly report from here on out. Tree removal permits are taken care of administratively, they only come before the Commission in the case of an appeal. In response to a question from Kerr, Barnes reviewed the tree removal permit process in detail.

(6) Ongoing Planning Items

Barnes updated the Commission on current Land Use Board of Appeals (LUBA) cases. No briefing is scheduled as of yet for Nicholson as both parties are currently discussing the record. Breakers Point has withdrawn their appeal. The City is anticipating a revised conditional use permit application to be submitted in the up coming months.

(7) Good of the Order

Hull stated that he was a public charter school principal and teacher in Portland. He stated that space was limited there as well. The Cannon Beach school has the benefit of nearby beaches and trails. The school plans on utilizing those resources.

ADJOURNMENT

The meeting adjourned at 6:59 p.m.

Administrative Assistant Alisha Gregory

Minutes of the
CANNON BEACH PLANNING COMMISSION
Thursday, June 25, 2015

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

Excused: None

Staff: City Planner Mark Barnes, Administrative Assistant Alisha Gregory

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bennett, Bernt, Dewey, Johnson, Kerr, Patrick, and Lundy 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 May 28, 2015

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

Vote: Bennett, Bernt, Dewey, Kerr, Patrick and Lundy voted AYE; the vote was 6/0 in favor and the motion passed unanimously. Johnson abstained as he was not present for the May 28, 2015 meeting.

(3) Public Hearing and Consideration of SR 15-03, Construction Headquarters, Inc. Request for a Setback Reduction in Conjunction with a Remodel at 163 E Chisana

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. Chair Lundy asked if any Commissioner had any conflicts of interest or personal bias to declare. There were none. Chair Lundy asked if any Commissioner had any ex parte contacts or made a site visit. Site visits were declared.

Barnes summarized his staff report and reviewed the application drawings. He noted that the rear deck encroaches on the neighboring property, along with a portion of the fence. Barnes noted a full-size survey available for viewing and a ruler, if the Commissioners require it. Barnes stated that the survey is based off of the building footprint and does not include eaves or overhangs. The municipal code does allow eaves to encroach up to 18 inches into required side yards, however it may not encroach over the property line. He recommended that the Commissioners make a detailed motion regarding the front yard setback and the side yard setback. In response to a question from Johnson, Barnes stated that he was unable to find information on when the garage was built but did state it is not non-conforming. Also in response to Johnson, Barnes stated that the garage must be 15' from the front property line not including the allowed eave extension. The Commission discussed the front deck railing. A deck less than 30" does not require a railing, however it is recommended for safety. Kerr stated that the deck railing has no connection with this project.

Regarding the eaves, Barnes stated that he would allow the extension of the eaves up to 18 inches into required side yard unless specific language is stated otherwise as a condition of approval.

Bernt stated concerns with this project meeting the criteria that this application is for a rehabilitation of an existing building. The applicant uses terms such as “remodel”. Barnes stated that the code does not define “rehabilitation”, the common English language definition should be used. The Commissioners discussed this criteria in detail. Barnes stated that the Commissioners interpretation of the code holds more weight than staff interpretation.

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

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.

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

Rod Fisher, Construction Headquarters Inc. 3002 SE 149 Ct. Vancouver WA 98683, representing the owners, noted options available to the homeowners. He stated that the recent survey showed the concrete retaining wall on the previously believed property line encroaches on neighboring property came as a surprise. Plans had been created with the assumption that the retaining wall was located on the property line. Fisher reviewed different building options the property owners were presented with. The current plan was decided on to minimize impact on neighboring properties. He noted that it would be possible to demolish the current dwelling and rebuild a two story, 28’ tall, dwelling without having to apply for a setback reduction. In regards to the proposed cover to be placed over the back deck that encroaches on the neighbors property, Fisher stated the plans were made prior to the survey and can be modified. Fisher stated the deck has some rot and will need to be replaced anyway. The deck can be brought in to compliance with the 5’ setback and then be covered. The Commissioners and Fisher discussed the extension of the roof. Fisher noted that esthetically it would “look silly” if the roof line was not extended over the front portion of the home. In rebuttal to a letter written in opposition, Fisher stated that the only view that would possibly be disturbed is the neighbor to the east that has a two-story home with a second floor deck and large windows that overlook the house with views to the west. In response to a question from Lundy regarding the “rehabilitation” of the home, Fisher noted several substandard structural issues with the home. In response to a question from Patrick, Fisher stated that the new foundation will not raise the height of the dwelling.

Chair Lundy called for proponents of the request.

Chair Lundy called for opponents of the request.

Carol Bowlby, PO Box 175 Tolovana Park OR 97145, gave testimony in opposition. In response to Bowlby’s concerns, Fisher clarified that the original plot plan showed a 12-foot front yard setback. After the recent survey it was determined that the front yard setback is actually 14 feet.

Lesley Daoud, PO Box 704 Tolovana Park OR 97145, gave testimony in opposition. She noted that the roof addition will impede views from the east, specifically the view from 195 Chisana. In her opinion, this should be viewed as a remodel. She noted that since she has owned property in Cannon Beach this is the first notice involving a land use decision that she has received within her neighborhood - implying that other property owners have made alterations of their homes within compliance of City code. She stated that the west side setback, deck, and fence should be brought into compliance according to the recent survey. She stated concerns with current setbacks and fire danger. Daoud distributed a letter to the Commissioners. A copy can be found in the record file.

Barnes stated that this dwelling is a pre-existing non-conforming structure. It was noted that an administrative review can take place if the cost of the remodel does not exceed 50% of the fair market value.

Scott Evanson, PO Box 121 Tolovana Park OR 97145, gave testimony, on behalf of three adjacent property owners, in opposition. He seconded Daoud’s testimony. He distributed photos.

Terrie Huckaba, PO Box 567 Tolovana Park OR 97145, presented photos showing the back deck encroaching over the property line on to her property (photos may be found in the record file). She requested that the back deck and fence be moved to no longer encroach on to her property.

Chair Lundy asked for staff response. There was none.

Chair Lundy asked if the applicant wished to make any additional statements.

Doug Johnson, 2317 SE 102nd Ct. Vancouver, WA 98664, the homeowner, noted several structural problems with the home and deck. Johnson explained that this plan provides the least amount of impact for neighboring properties, as opposed to building a conforming two-story home. Johnson noted that he would be willing to meet the required 15-foot front yard setback. The back deck can be brought back to comply with the 5-foot setback requirement. He noted the fence was built according to an old survey. He was surprised by the calculations of the recent survey. He stated that the construction plans will be altered based on the new survey.

The Commissioners discussed the setbacks in detail as well as the recent recorded survey.

Chair Lundy closed the public hearing.

Dewey asked if the west wall is grandfathered in. Branes confirmed that it is. Kerr asked about the 50% rule on remodeling non-conforming uses. Barnes answered that the proposal is well beyond the 50% limit. Johnson asked if the retaining wall to the west was grandfathered in. Barnes stated it is not if it encroaches across the property line.

Motion: Dewey moved that the application be approved with the following conditions:

1. The front (north) wall of the dwelling will be moved to the south to comply with the minimum 15-foot front-yard setback.
2. The existing deck will be modified to meet the five-foot side-yard setback on the west side.
3. Any fence, deck, or roof eave encroaching over the property line will be removed.

Commissioners discussed if this qualifies as a remodel or rehabilitation. Commissioners discussed the eaves and the property line. A lengthy discussion ensued.

Kerr seconded the motion.

Barnes noted absent any condition specifying otherwise, he would allow the eave extensions allowed by code, unless they would encroach over the property line.

Vote: Bennett, Dewey, Kerr, and Patrick voted AYE, Bernt, Johnson, and Lundy voted NAY; the vote was 4/3 in favor and the motion passed.

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

Motion: Patrick moved to authorize the Chair to sign the appropriate orders; Kerr seconded the motion.

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

INFORMATIONAL ITEMS

(5) Tree Removal Permits

Barnes reviewed a complaint brought to the City regarding tree topping on a property on Laurel. The Commissioners discussed tree topping. Barnes clarified that the City's code does not require a permit for tree pruning. ISA standards must be followed for pruning. In response to Kerr, Barnes stated that the Commission may be asked to review the City's tree ordinance at some point. In regards to initiating amendments - Barnes

stated that the Commission may direct staff to look into amendments. Barnes stated that he will distribute tree ordinance material for the Commissioners to review at the August meeting.

(6) Ongoing Planning Items

Barnes noted that the December meeting falls on Christmas Eve and asked for the Commissioners to start looking at their calendars as hearings are scheduled three months out. He asked they look at possible meeting dates for November and December. Dewey requested an email reminding Commissioners to look at their calendars. Johnson noted that, in previous years, the Commission met on the Monday before.

(7) Good of the Order

There were none.

ADJOURNMENT

The meeting adjourned at 7:40 p.m.

Administrative Assistant Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, August 27, 2015

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

Excused: Commissioner Charles Bennett

Staff: City Planner Mark Barnes, Administrative Assistant Alisha Gregory

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bernt, Dewey, Johnson, Kerr, Patrick, and Lundy 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 23, 2015

Motion: Bernt moved to approve the minutes as amended with Commissioner Kerr's corrections; Dewey seconded the motion.

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

(3) Continuation of the Public Hearing and Consideration of CU 15-03, Bruce Francis, on behalf of Breakers Point Homeowners Association (BPHOA) Request for a Conditional Use Permit for Dune Grading West of the Breakers Point Condominium Development

Chair Lundy introduced the item as a continuation from the July 23, 2015 meeting, noting that this request will be reviewed against the criteria of Municipal Code, Section 17.80.110, Conditional Uses, Overall use standard; Section 17.42.060.A.3, Specific standards, Fore dune 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 Lundy asked if any Commissioner had any conflicts of interest. Patrick stated that she is a home owner at Breakers Point. Patrick stepped down from the dais and sat in the audience. Chair Lundy asked if any Commissioners had any personal bias to declare. There were none. Chair Lundy asked if any Commissioner had any ex parte contacts. Chair Lundy stated he had an exchange with Mike Morgan in which Morgan vouched for Kathleen Stayce's credibility. Lundy stated that this will not effect his decision. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting that there has been no substantial changes from the July staff report. In order to meet the 120 day land use decision requirement a decision will have to be made at tonight's hearing. If the applicant requests a continuance, the Commission should ask the applicant if they will grant the City additional time. Barnes recommend not extending hearing unless necessary to reach a decision.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence emailed to the Commissioners and hard copies located at the dais. Barnes addressed FEMA regulations noted in correspondence

from Jeff Harrison and ORCA. He clarified FEMA +4 and required cross sections, stating that the applicant appears to meet current FEMA regulations. Barnes explained the flood hazard elevation.

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

Bruce Francis, Manager of Breakers Point Homeowners Association (BPHOA), PO Box 246, Cannon Beach OR 97110, gave a presentation. Francis distributed a map (a copy is located in the record file) outlining the area to be graded. The map shows that approximately 40% of the area is on property that Breakers Point homeowners pay taxes on. He stated that under Oregon law they do not own the beach, but are responsible for maintaining it. He stated the reasons for requesting this particular area and how any potential negative effects such as sand inundation should only effect property owned by BPHOA and not adjoining property. This area was chosen by considering north 20 degrees east wind and geologist recommendations. Francis stated that it should take 3-5 years to establish native vegetation to maturity. Success will be established after six months. The six month report will be presented to the Commissioners and then a determination will be made whether or not additional applications will be submitted. This does not mean additional dune grading applications for other areas will not be submitted. Francis noted that, per geological reports presented, it will take approximately 8 years for the dune height to return to where it is at today. In response to a question from Johnson regarding the reduction of taxes based on county assessment, Francis stated that this is a private matter and he does not have information on how many owners have had assessed value lowered by the county.

Dean Alterman, 805 SW Broadway, Suite 2750, Portland OR 97205, appearing as the attorney for the applicant the homeowners association, gave a presentation. Alterman noted that opponents have suggested that the sand management plan adopted in 1997 was supposed to be a solution, this is not the nature of the plan. He rebutted oppositions testimony that the dunes are protection from flooding and tsunamis. He stated that the proposal more than complies with FEMA +4 standards and cross sectional requirements. Also in regards to the suggested protective value of the dunes, Alterman pointed out that the sand dunes are not structurally engineered. Furthermore, the tsunami wave will likely go further up Ecola Creek. In regards to BPHOA dune grading adding to sand accumulation to the north at Chapman Point, Alterman noted that BPHOA has not graded in over 5 years.

Chair Lundy called for proponents of the request.

Frank Patrick, 255 Torreyview Drive, Portland OR 97110, Breakers Point unit 654, gave a presentation in support of the application. Patrick noted dune growth is approximately 65 feet in some locations. He stated that City has a high interest in view preservation and livability, one example being height restrictions for new construction. He further stated that Breakers Point was built to see the breakers, hence the name. The livability factor has gone down. The unit below Patrick's unit has not had a view in over 10 years. Patrick stated that the City would intervene if new development was causing that view obstruction. Breakers Point began the process of sand management with the City with a goal to maintain livability. In response to Johnson, Patrick stated that he was on the Board for Breakers Point. He is aware of several properties that have asked for an abatement from the County Assessor due to the loss of view. Property values have been effected for every unit. In response to a question from Kerr regarding the definition of livability, Patrick responded that it is a spectrum, what is important for the individual, what is desirable. He concluded by stating that the City has a duty to manage the sand exactly how the Comprehensive Plan allows it.

Carol Keljo, 5615 SE Scenic Lane Unit 206, Vancouver WA 98661, Breakers Point unit 451, gave a presentation in support of the application. Keljo stated that she has been a property owner and community supporter for 23

years. Her view has not been significantly obstructed, however, she is testifying to support neighbors. She noted that the Presidential streets have been allowed to perform dune grading for view enhancement. Keljo stated that sand fences have been used in the past, now the plan requires planting of non-native dune grass. The application is to restore the dunes to native vegetation.

Michael French, PO Box 683, Cannon Beach OR 97110, gave a presentation in support of the application. French stated that he observed dune grading at Tolovana Wayside. He spoke with the excavator operator whom stated the grading was to restore access but implied it would be have been done to restore views if needed. French stated that the same rules and regulations should apply for all dune grading. In response to a question from Kerr, French confirmed that the operator did not say if was for view enhancement.

Susan Neuwirth, PO Box 746, Tolovana Park OR 97145, gave a presentation in support of the application, noting her previous correspondence received by the Commission stating concerns not related to view. She stated that some people have an attitude toward Breakers Point homeowners, specifically the opponents of this request. Some calling them rich and "spoiled". She stated that the owners have worked hard for what they have. In response to an opponent saying they are "fat walled Californians", 67 owners are from Oregon, 1 from Maryland, 1 from Georgia, 1 from Texas, and only 4 from California. She distributed a handout from the "Friends of the Dunes at Chapman Point, Cannon Beach" Facebook page. She noted that none of the photographs are of the dunes. They are photographs Haystack Rock, etc. She concluded by stating that the application is not to take the dunes down to nothing, only to restore them.

Chair Lundy called for opponents of the request.

Robin Risley, PO Box 950, 587 N Laurel, Cannon Beach OR 97110, gave testimony in opposition of the application. Risley summarized and distributed a Cannon Beach Gazette article from 1999 on dune erosion and related weather patterns. Given this year is an El Nino year, Risley respectfully requests that no dune grading permits be issued until an updated sand management plan is in place.

Jan Siebert-Wahrmund, PO Box 778 Cannon Beach, OR 97110, gave testimony in opposition of the application. She summarized her letter that can be found in the record file. She asked that the City postpone approving dune grading applications until after an updated sand management plan is adopted. She further asked that everyone work together for the sake of community, the ecosystem, emergency needs, shared quality of life, and aesthetics. She wished Breakers Point well in the use of soft rip-rap and estuary vegetation for erosion control.

Jennifer Harrison, 11445 NW Permian Dr., Portland OR 97229, 539 N Laurel, gave testimony in opposition of the application. Jennifer Harrison stated that she is sympathetic to the first floor residents of Breakers Point, however, she believes the application is asking for too much and putting citizens at risk. She stated the owners were aware of possible view obstruction when they purchased their homes. She stated that the beach is state land and therefore BPHOA does not have the rights for this application. Jennifer Harrison concluded her testimony by stating that she respects the applicants and wants to work together to find a solution.

Clay Newton, 3524 NE Klickitat, Portland OR 97212, representing the Friends of the Dunes, gave testimony in opposition of the application, referring back to the outdated sand management plan. Newton stated in detail how the current plan is outdated, and based on this, the application should be denied. He stated concerns with the section to be graded noting that is is not a natural accruing ridge. Newton further stated that the dunes are located predominantly on state lands, and the state does not have the responsibility of preserving views. Newton asked that the Commissioners establish an updated management plan and then allow the process to start over.

Jeff Harrison, 11445 NW Permian Dr, Portland OR 97229, gave testimony in opposition of the application. Jeff Harrison apologized for submitting his written testimony just today. He summarized his letter to the Commissioners.

Rex Amos, PO Box 494, Cannon Beach, OR 97110, gave testimony in opposition of the application, noting that after previous dune grading sand blew onto his property and not the forest, as was stated in the application. In regards to grading at the Tolovana Wayside, he stated that it was to maintain public access and to keep the ADA ramp clear.

Tommy Hunnington, PO Box 1054, Cannon Beach, OR, 587 N Laurel, gave testimony in opposition of the application, stating that he had access to a photograph taken in 1945 that shows the dunes looking similar to the way they are today. Hunnington stated concerns about trying to “outsmart mother nature”, agreeing that the use of European beach grass was a bad idea. He further stated that this application seems excessive and is skeptical that this will take care of the issues. Lundy stated that he would like to see the photograph and have historical evidence.

Chair Lundy asked for staff response. Barnes stated that the grading at the Tolovana Wayside was for storm water outlet and to keep access clear.

In response to a question from Jeff Harrison, Lundy clarified the rationale for limiting time for public comment. Dewey noted that a substantial amount of redundant material was presented at the last meeting, and many testifying wanted to read their letters that had previously been submitted and read by the Commissioners.

Chair Lundy asked if the applicant wished to make any additional statements.

Dean Alterman, BPHOA attorney, asked the Planning Commission to consider the the steady growth of dunes; the importance the City's zoning ordinance places on views; the fact that the proposal meets or exceeds relevant flood hazard standards; and that the applicant has demonstrated that the proposal meets all applicable criteria for approval of this conditional use permit.

Bruce Francis gave additional testimony, stating that the grading at Tolovana Wayside makes sense, it is to insure good flow from the storm drain system and maintain access. Breakers Point has three beach accesses located on BPHOA property. Two of those are currently unusable. Francis stated that the public has the right to access the beach. Without permission from the City to perform dune grading, BPHOA is unable to fulfill the requirement asked of them to maintain that access. Francis noted that the City Council stated that the existing sand management plan is the document under which applicants move forward with the process. Francis stated that BPHOA has been blamed for incurring the cost to the City for a new sand management plan, when it is the opponents that state the plan is invalid. Responding to opposition testimony about dune grading causing an increase risk in the event of a tsunami, Francis stated that the tsunami in 1964 ran straight up Ecola Creek.

Lundy asked Tom Horning to return to the podium to answer Commissioners questions regarding the cyclical process of dune growth and how weather effects the process. A discussion on sand movement, climate cycles, and sand accumulation followed.

Kerr stated that the sand management plan needs to be updated with best available science, as scientific understanding has changed since the original plan was adopted. Kerr’s recommendation is that removal of 15,000 cubic yards of sand be allowed and then the City should place a moratorium on dune grading until an updated sand management plan is adopted. Bernt concurred with Kerr, further stating that Breakers Point’s experimental dune rehabilitation is worth looking into to possibly implement in future dune grading applications. Kerr stated that she does not agree with the correlation between building height and dune height. She stated concerns that dune grading had been previously allowed. Dewey stated concerns with not having an end date in mind when considering a moratorium.

In response to a question from Lundy, Barnes noted that the City is currently working with DOGAMI on a scope of work, budget, and memorandum of understanding for consulting services. If the study begins this fall, that phase of the process may take up to one year. The second phase, which would include rule making based on scientific information, will also take time. Barnes stated that the process may take 18-24 months, which is a very rough estimate for completion. The Commissioners will review the draft plan and hold public hearings prior to adoption of the plan.

Kerr stated that she would like a condition of approval that no additional dune grading will be allowed until an updated management plan is adopted. Johnson stated that the area has had active foredunes for decades. He further noted that it is his belief that eliminating sand buildup is an impossible task. He stated that he also believes this is an inadequate plan and is concerned it is only one phase of the previously submitted larger request

in December, 2014. He also stated concerns with planting of native species and the vegetation plan. Dewey noted that this is an opportunity to experiment with native dune vegetation restoration. Johnson stated concerns with european beach grass being on both sides of the proposed re-planted area and may not give an adequate assessment of what would happen in regards to sand movement. Lundy suggested a condition to expand the experimental vegetation area. In response to questions from the Commission, Doug Ray gave a detailed summary of where the seeds and vegetation will come from and what specifics will be planted/seeded.

Motion: Kerr moved to approve that application with three additional conditions: 1) within the area to be graded, bare sand areas between the test plots will be vegetated with native plant species to the extent possible, 2) no further dune grading permits at the Breakers Point development will be approved until a revised and updated Sand Management Plan is adopted by the City, and 3) no further dune grading permits at the Breakers Point development be approved until monitoring reports document success with the proposed revegetation plan, 18 to 24 months after project commencement.

The Commissioners discussed the additional conditions with Doug Ray. Ray noted the support letter from Fish and Wildlife Services and what the community can learn from these test plots. Ray reviewed the seeding process in detail.

Bernt seconded the motion.

Barnes noted that the Commission may consider requiring BPHOA to perform erosion control if any problems arise during the winter as a response to the dune grading. The Commissioners discussed this in detail agreeing that the City has authority to impose the requirement if an emergency occurs.

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

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

Motion: Johnson moved to authorize the Chair to sign the appropriate orders; Dewey seconded the motion.

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

INFORMATIONAL ITEMS

(5) Tree Ordinance

Kerr led a discussion regarding a fine imposed on Jeff Nicholson for illegal pruning that occurred on this property. Barnes reviewed the situation outlining the City's procedure for code enforcement. The Commissioners noted concern with having two inconsistent arborist reports. The Commissioners stated concerns with the process. As a result of discussion Barnes reviewed the process for amending the zoning ordinance text. After one or more work sessions, the Commissioners may hold a public hearing on the draft amendments. The Commissioners would then make a recommendation to the City Council.

Barnes stated that the City has reapplied to be in the Tree USA program. As a result the City will have an official Tree Committee.

Barnes will be asking the City's arborist, Will Caplinger, to attend a work session to answer Commissioners questions and provide perspective. Barnes will tentatively place this discussion on the October agenda.

(6) Tree Removal Permits

In response to a question from Lundy, Barnes stated that the tree located on the property line for the approved duplex was signed off by both neighbors, the other two trees were approved through the building permit process. In regards to the tree removed in the City Hall back parking lot, that tree was confirmed dead. In response to a question from Dewey regarding the back parking lot redesign, Barnes stated that additional trees may need to be removed. A small advisory committee, which includes adjacent property owners, has been created.

In response to a question from Kerr, Barnes stated that building permit questions should be directed to Administrative Assistant Jennifer Barrett.

(7) Ongoing Planning Items

The September meeting will be moved to Monday, September 21, 2015 in order to consider an application, due to the 120 day time limit requirement for land use decisions.

(8) Good of the Order

The Commissioners tentatively agreed to move the November and December Planning Commission meetings to the Monday before the regularly scheduled meeting. Barnes will place this discussion on next months agenda.

Barnes stated that training for Planning Commissioners may be available in the near future.

ADJOURNMENT

The meeting adjourned at 8:43 p.m.

Administrative Assistant Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Monday, November 23, 2015

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, 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 Lundy called the meeting to order at 6:00 p.m.

ACTION ITEMS

(1) Approval of Agenda

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

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

(2) Consideration of the Minutes of the Planning Commission Meeting of October 22, 2015

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

Vote: Bennett, Bernt, Dewey, Kerr, and Lundy voted AYE; the vote was 5/0 in favor and the motion passed unanimously. Johnson and Patrick abstained as they were not present at the October 22, 2015 meeting.

(3) Public Hearing and Consideration of V 15-03, Rowley Request for a Lot Coverage Variance in Conjunction with a Building Addition at 188 Fernwood Street

Chair Lundy introduced the item.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflicts of interest. Chair Lundy stated that the applicant, Todd Rowley, has done work for him; he feels this will not be a conflict of interest or bias. Chair Lundy asked if any Commissioners had any personal bias to declare. Dewey stated that he has worked with Rowley's wife in the past but does not feel that would bias his decision. Kerr stated that she knows Rowley and his wife but does not feel that would bias her decision. Chair Lundy asked if any Commissioner had any ex parte contacts. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting the variance is just slightly over the allowed 50%. Barnes noted a correction to the agenda, stating that the Commissioner's will make a decision, not make a recommendation to the City Council, as the agenda states. Barnes stated that some cities have a rule regarding "close calls", variances 1% and lower, that allow for an administrative decision as opposed to going before the Planning Commission. Barnes further stated that a code amendment to allow an administrative decision for "close calls" may be considered in the future if the Commissioners would like.

Chair Lundy asked if there was additional correspondence. Barnes noted there has been no correspondence for this item.

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; 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 Lundy asked if the applicant wished to make a presentation.

Todd Rowley, PO Box 754 Cannon Beach OR 97110, gave a presentation. Rowley noted the property owners made the decision to come before the Commission once the lot coverage overage was noticed. In response to a question from Johnson, Rowley stated the owners determined a reduction in the deck would be significant and chose to ask the Commission for the slight variance in order to keep the preferred deck design. In response to questions from Kerr, Rowley stated the existing deck will be removed; the new deck built with all new materials. In response to Kerr noting the possibility of the new deck being built in compliance with lot coverage regulations, Rowley confirmed that it could be, however, the owners are requesting a variance to allow the proposed deck design that expands the width of the entire house. Rowley noted the reasons for the proposed deck design. The Commissioners discussed conversion of hardscape to soft-scape in order to meet the lot coverage requirements and eliminating the need for a variance.

Chair Lundy called for proponents of the request.

There were none.

Chair Lundy called for testimony from opponents of the request.

There were none.

Chair Lundy asked for staff response.

Barnes clarified lot coverage definition, confirming Rowley's assessment that there may not be availability to adjust hardscape/soft-scape to meet criteria.

Chair Lundy asked if the applicant wished to make any additional statements.

Rowley did not wish to make any additional statements.

Chair Lundy closed the public hearing and moved to consideration.

In response to Commissioner discussion, Barnes noted that variance granting criteria A.2. (17.84.030 of the City's Municipal Code) regarding "exceptional or extraordinary circumstances or conditions" is up to the Commission's interpretation. Johnson stated that he does not believe this criteria is met. The Commissioners discussed possible options for converting hardscape to soft-scape to allow the deck construction without a variance. Bennett noted that the variance is a minimal amount and believes it should be approved. He stated that he is in favor of a code amendment to allow administrative decisions for this type of application. In response to Dewey, Barnes stated that, to best of his knowledge, Astoria allows administrative decision for variances of 1% and less; Clatskanie allows administrative decision for variances of 5% or less. Barnes explained the process for administrative decisions, noting that the Planning Commission Chair and Planning Director would make the decision, similarly to the Design Review Board's major/minor determination process.

Kerr stated that she does not believe criteria A.2. has been met. Bennett restated that this is a minor variance, adding that there has been no opposition from neighboring property owners. Given the Commissioners are meant to interpret the code, he feels it should be granted. Dewey agreed with Bennett's statements and also agrees with Bernt's statement that the numbers exist for a reason. In response to a question from Dewey regarding administrative decisions for "close calls", Bernt recommended it be put before the community for them to decide whether or not that would be a good idea. Dewey noted that the preferred construction method would be to build the deck to the corners of the house. He believes the request should be granted. In response to a question from Kerr, Dewey stated that it would be preference, not for any safety issues.

In response to a question from Lundy regarding self imposed hardship, Rowley replied that, “ it was kind of self imposed.” He explained that the owners were not aware of the existing lot coverage when they purchased the property. He noted that if the deck construction would have called for a variance greater than 1/2 percent he would have discouraged the design. In response to discussion, Patrick stated that many first time home buyers in Cannon Beach may not be aware of the 50% lot coverage rule, further stating that she understands the value of the full deck and the design matching surrounding property esthetics.

Motion: Johnson moved to deny V 15-03; Bernt seconded the motion.

Vote: Bernt, Johnson, Kerr, and Chair Lundy voted AYE; Patrick, Dewey, and Bennett voted NAY; the vote was 4/3 in favor and the motion passed.

(4) Tree Ordinance Work Session Discussion

Barnes summarized his staff report, noting that a public hearing may be scheduled to recommend adoption of code amendments to the City Council in the future. At this time, staff is looking for direction on a draft ordinance to present at a public hearing. Barnes stated the Planning Commission may hear testimony tonight, noting that there will be opportunity for future testimony.

Kerr questioned whether or not the City Manager has the authority to reduce penalties and fines, specifically referring to a situation in which Jeff Nicholson was cited for excessive limbing and tree topping on his property located at 532 N Laurel Street. Barnes stated that the authority is not in the Tree Ordinance; the decision was based on advice from the city attorney and falls under prosecutorial discretion. Kerr stated that she believes the City Manager does not have the authority to reduce the fine and disagrees with the decision to decrease Mr. Nicholson’s fines. Kerr discussed her disapproval at length. Barnes reviewed the City’s process for code violations and citations. Kerr asked if the City’s arborist accessed the property to better report on conditions. Barnes answered that he did not; and City employees, contractors, and consultants will not access private property without permission from the property owner.

Dewey suggested the tree removal permit and ordinance specify that by applying for a tree removal permit you are inviting the City’s arborists onto the property. Kerr agreed with Dewey’s proposed amendment. Barnes likened the scenario to the City’s building permit process. A permit may not be finalized until the building official is allowed access to the property to inspect the work. In response to Commissioner discussion, Barnes reviewed the tree removal permit process.

Johnson made the following draft ordinance recommendations:

1. 17.70.012. Definitions. “Dead tree”, eliminate “or less than ten percent of the crown is alive”.
2. 17.70.012. Definitions. “Tree” should treat landscape trees equally regardless if native or nonnative.
3. 17.70.030.G. Additional requirements. The tree replacement policy needs to be enforced.
4. Resolution 91-6, Tree Replacement Policy II.B.1. add Bigleaf Maple and Vine Maple, include all viable nonnative landscape trees.
5. Determine “special trees” such as: historic, landmark, and specimen trees. These trees should have additional protection and removal prohibited.
6. Penalty for unlawful tree removal should be assessed based on tree value.

The Commissioners discussed prohibiting “special tree” removal and the possibility of a lot becoming unbuildable. Bernt suggested the City purchase those lots and turn them into parks. Barnes noted potential for a measure 49 claim and reviewed legalities of such a decision. Dewey recommended expanding the notification area for right-of-tree tree removal permit applications. Dewey stated concerns with people purposefully damaging a tree, for example during excavation, to kill the tree and subsequently be allowed to remove the tree.

In response to discussion, Barnes reviewed hazardous tree removal process. Bernt suggested an active survey of potentially hazardous trees. In response to discussion regarding replacement trees, Dewey noted that some scenarios, such as slope density, may result in no viable replacement locations. He suggests the property owner

donate a tree to the City to be planted elsewhere on public property. Dewey believes this will deter planting just for the sake of planting, where trees will not survive. Lundy recommended follow-up for replanted trees to determine viability.

In response to correspondence from the Friend's of the Trees group, Johnson stated that the list of replacement trees should be expanded to include ornamental trees that would satisfy the landscape needs and fit that location.

Jan Siebert Wahrmond, PO Box 778, Cannon Beach OR 97110, stated that the Friends of the Trees group has been working with Oregon Department of Transportation (ODOT) Project Leader Bill Jablonski regarding the Cannon Beach Forest Corridor Vegetation Maintenance Plan. There is no formal agreement with ODOT at this time, but the City will be looking into it.

Barnes stated that he can put a draft ordinance together based on the suggestions. The Commissioners may decide to have an additional work session or move to a formal hearing. The consensus was to hold a work session at the January 28, 2016 meeting.

Dewey encouraged the Commissioners to discuss the ordinance with neighbors, businesses, and the community to get feedback. Barnes noted that ex parte contacts will be required to be disclosed only once the tree ordinance is noticed as a public hearing item. The Commissioners are free to discuss the ordinance with community members at this time.

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

Motion: Kerr moved to authorize the Chair to sign the appropriate orders; Johnson seconded the motion.

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

INFORMATIONAL ITEMS

(5) Tree Removal Permits

No discussion.

(6) Ongoing Planning Items

Barnes noted upcoming planning items: Nicholson plan development stage three application and Vonada setback reduction application.

(7) Good of the Order

ADJOURNMENT

The meeting adjourned at 7:29 p.m.

Administrative Assistant Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Monday, December 21, 2015

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, 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 Lundy called the meeting to order at 6:03 p.m.

ACTION ITEMS

(1) Approval of Agenda

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

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

(2) Consideration of the Minutes of the Planning Commission Meeting of November 23, 2015

Chair Lundy noted a possible change to paragraph one on page three. Gregory will review the audio, make changes if needed, and present the changes at the next meeting.

Johnson noted an additional draft ordinance recommendation stated during the tree ordinance work session discussion. Johnson suggested the assessed penalty for violations of the tree removal ordinance be based on the value of the tree.

The amended November 23, 2015 minutes will considered at the January 28, 2016 meeting.

(3) Public Hearing and Consideration of SR 15-05, Tolovana Architects Request for a Setback Reduction in Conjunction with the Construction of a New Garage at 159 Center Street

Chair Lundy introduced the item and asked if anyone was present that wished to testify on this item. No participants were noted. Since no one was present to testify, Chair Lundy announced that the public hearing will be continued to the February 25, 2016 meeting at 6:00 p.m. in the Council Chambers.

(4) Public Hearing and Consideration of PD 15-01, Nicholson Request for Final Approval for PD 14-01, Plan Development at 532 N Laurel Street

Chair Lundy introduced the item.

Chair Lundy asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time.

Diane Amos, PO Box 494, Cannon Beach OR 97110, representing the group "Friends of Cannon Beach" objected citing that the submitted plans are not complete or fully detailed, noting a lack of landscaping detail. Amos stated concerns with no homeowners association (HOA) being established for common space and also concerns with the lack of a performance bond. Amos requested that the Commissioners reject the application.

Chair Lundy stated that City's land use attorney has advised that the application be deemed complete, in regards to completeness to be reviewed by the Commission. The Commissioners may decide after hearing testimony that

the plans are not complete and recommend the application by denied by City Council. Application completeness is a determination made at the City Planner's discretion. Kerr requested clarification from Barnes. Barnes clarified the process, noting the completeness determination does not mean all the criteria has been satisfied. Barnes reviewed the 30-day application review timeline and the subsequent 120-day land use decision requirement. Counsel believes this is not a question of jurisdiction. Staff recommends proceeding.

Jan Siebert-Wahrmund, PO Box 778, representing "Friends of the Cannon Beach Trees", gave testimony in support of Amos' claim.

Rex Amos, PO Box 494, Cannon Beach OR 97110, testified adding to Diane Amos' claim.

Will Rasmussen, Miller Nash, 111 S 5th Avenue Suite 3400, Portland OR 97204, attorney for the applicant, testified in opposition to Amos' claim, noting the 120-day land use decision timeline. He further noted that the application has been deemed complete and therefore started the land use decision clock. He stated that he believes no one would benefit if that timeline is not met and the application is brought before circuit court.

The Commissioners discussed Amos' claim.

Motion: Bernt made a motion to accept jurisdiction; Bennett seconded the motion.

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

Chair Lundy asked if any Commissioner had any conflicts of interest. There were none. Chair Lundy asked if any Commissioners had any personal bias to declare. There were none. Chair Lundy asked if any Commissioner had any ex parte contacts. Kerr stated she has met with several members of the community. Nothing was discussed that is not in the record. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting changes from the original drawings highlighted in the report. He stated that the Commission will be making a recommendation to the City Council, not making a final decision. In regards to incomplete application concerns, the Commission may choose to recommend denial, approval, or modification to the City Council based on testimony. If the Commission would like the applicant to return with additional materials asking for an extension of the 120-day clock is recommended. The applicant is the only one that can grant such a request. Regarding a bond, per City code, the Commission determines the amount of the bond. Barnes stated Public Works Director, Dan Grassick, is present to assist the Commission if needed. Barnes clarified that the zoning ordinance will control any provisions not noted on the plans, otherwise the plans will trump the zoning ordinance. Barnes noted the proposed building height on lot 4, stating that vertical measurements may result in a home taller than would usually be approved. Barnes stated that if any Commissioner has questions for the City's land use attorney, Bill Kabeiseman, he will consult with him since Kabeiseman was unable to attend this meeting. In response to a question from Johnson, Barnes reviewed height measurement and measuring based on pre-construction grade.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence before the Commissioners.

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; 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 Lundy asked if the applicant wished to make a presentation.

Will Rasmussen, Miller Nash, 111 S. 5th Avenue, Suite 3400, Portland, OR 97204, attorney for the applicant, testified on behalf of Jeff Nicholson. Rasmussen reviewed the application history. He summarized his letter dated December 21, 2015, responding to public comment and providing clarification.

Kerr stated concerns with not establishing a homeowner's association (HOA), specifically not having something in place to protect and care for common areas, such as the living retaining wall and shared driveway. Rasmussen stated that those concerns can be addressed with a shared maintenance agreement. He further stated that the City's municipal code states an HOA is required whenever private outdoor living area is provided; this application calls for common outdoor living areas and therefore is exempt. In response to questions from Commissioners regarding elevations and building plans, Rasmussen stated that more detailed plans are reviewed during the building permit process, not stage three of a planned development. The Commissioners discussed concerns with building height and not having more detailed plans showing building appearance. In response to concerns noted by Bennett with pile driving, Rasmussen stated the intent is to use helical piers that do not require pounding. At this time the application does not call for pile driving. In response to a question from Lundy, Rasmussen confirmed that the application does not preclude the use of piles.

Chair Lundy called for proponents of the request.

There were none.

Chair Lundy called for testimony from opponents of the request.

Mike Capper, PO Box 14, Cannon Beach OR 97110, gave testimony in opposition, summarizing his letter sent to the Commission prior to the hearing; specifically, he noted concerns that the geotech report is stamped "preliminary" and construction concerns noting construction experience in that area. In response to questions from Patrick regarding which homes he built and had issues with pilings and stabilization, Capper stated he built both homes to the north of the subject property.

Robin Risley, PO Box 950, Cannon Beach, OR 97110, gave testimony in opposition, stating concerns with the geotech report. Risley noted three homes with large foundation cracks in the area of the subject property. She recommended the planned development not be approved based on the proposed application. Risley questioned who would be responsible for repairing the retaining wall if no HOA or bond exists. Risley requested the Commission continue the public hearing, allowing for written and oral testimony.

Tommy Huntington, PO Box 1054, 587 N Laurel, Cannon Beach OR 97110, gave testimony in opposition. Huntington expressed concern with the retaining wall. He also noted previous pile driving in that area and damage to adjacent property. Huntington stated property owners were assured by the City and developers that any damage would be mitigated; he further stated that no responsibility was claimed for the damage. He stated concerns that the current application does not state unequivocally that pile driving will not take place and who is responsible for any adjacent property damage.

Diane Amos, PO Box 494, Cannon Beach OR 97110, gave testimony in opposition stating concerns with the retaining wall and it's "unnatural" look. Amos stated that it appears to be planted with invasive ivy; she recommended a condition to not allow the planting of ivy or any other invasive species.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, gave testimony in opposition on behalf of the Friends of Cannon Beach Trees. Siebert-Wahrmund stated concerns with large heritage trees that may be negatively impacted by the proposed plans. She further stated concerns that the current application lacks a detailed landscape plan or a realistic tree preservation plan. She asked that the Commission declare the arborist report incomplete.

Cleve Rooper, PO Box 652, Cannon Beach OR 97110, gave testimony in opposition noting specifically: that the application is not compliant with the City's zoning ordinance, and the currently proposed application should not have been accepted as complete by City staff.

Chair Lundy asked for staff response. In regards to Rooper's concerns, Barnes summarized Oregon statute in respect to land use applications, noting that the application would have been considered "complete" by law 30 days after submission.

Chair Lundy asked if the applicant wished to make any additional statements. There was no additional statement at this time.

Chair Lundy asked Risley for clarification of her continuance request. Risley stated the initial hearing date is difficult due to the holidays. She believes more testimony is necessary in order for the Commission to make a fair decision. The Commissioners discussed continuing the hearing.

Motion: Bennett moved to continue the public hearing to January 28, 2016 leaving the hearing open for oral and written testimony; Kerr seconded the motion.

Patrick asked for clarification, if the same people will be allowed to testify. Chair Lundy stated that if additional information is offered, yes. The Commission would request that no duplicate testimony be presented. Bernt noted concerns with continuing the hearing, stating that he believes the Commission has all the information they need to make a decision at this time.

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

Barnes stated Commissioners can speak with him if they need additional information regarding testimony heard this evening.

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

No orders at this time.

INFORMATIONAL ITEMS

(6) Tree Removal Permits

No discussion.

(7) Ongoing Planning Items

Barnes noted proposed tree removal amendments. Based on the continuation of PD 15-01 to the January agenda, he recommended February to review those proposed changes. The Commission agreed to consider this item at their February meeting.

(8) Good of the Order

No discussion.

ADJOURNMENT

The meeting adjourned at 7:51 p.m.

Administrative Assistant Alisha Gregory