

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, January 28, 2016

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, 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: Johnson moved to approve the agenda; Bennett seconded the motion.

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

(2) Election of Chair and Vice Chair for 2016

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

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

Motion: Bernt moved to elect Johnson as Vice Chair; Kerr seconded the motion.

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

(3) Consideration of the Minutes for the Planning Commission Meeting of November 23, 2015 and December 21, 2015

Motion: Bernt moved to approve the November 23, 2015 minutes as amended; Patrick seconded the motion.

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

Motion: Bennett moved to approve the December 21, 2015 minutes as presented; Patrick seconded the motion.

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

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

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of Municipal Code, Section 17.40.040.C, Planned Development (PD) Zone, Planned development procedures, Final Approval (Stage Three).

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 conflict 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 noted her letter to the Commission dated January 27, 2016, regarding ex parte contacts mentioned at the December 21, 2015 hearing. Her letter fully disclosed each contact and noted the substance of each conversation. Kerr restated that the ex parte contacts would not bias her decision. Chair Lundy asked if anyone wished to rebut any ex parte contacts. No one wished to rebut. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report referring back to the more detailed December 21, 2015 staff report. Barnes reviewed correspondence regarding ex parte contacts stating that requirements have been met. He further reviewed correspondence from the City's land use attorney, Bill Kabeiseman, stating that the City Council's previous approval is not open for re-argument. Barnes stated the 120-day land use clock is up in mid-March and the application will go before City Council at their March 1st meeting to give them enough time to review and consider all materials.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence from Fred Lorish, and distributed his email. Barnes stated that any correspondence emailed to staff after 5:00 pm will not be received until tomorrow and will not be part of the record.

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.

William Rasmussen, Miller Nash, 111 S 5th Avenue, Suite 3400, Portland OR 97204, on behalf of the applicant, gave testimony and addressed comments in opposition. Rasmussen restated that the hearing is for stage three criteria approval, and that stage one and stage two have been decided and are not allowed to be re-litigated. Rasmussen addressed the following:

1. In regards to public comment stating the application lacks appropriate detail, Rasmussen noted additional materials provided to the Commission, specifically sheet EX1.O providing building elevations and height.
2. In response to a letter from the Friends of Cannon Beach group, Rasmussen stated that the Cannon Beach Municipal Code does not follow the Google definitions noted in correspondence, there is sufficient evidence in the record providing elevations.
3. Regarding a detailed development schedule and bond, it was noted to City Council that some homes may not be built for quite some time in which the Council was in favor of and did not request a development timeline. Regarding the need for a bond, that application does not include any public improvements and therefore a bond is not appropriate.
4. In regards to a request for a homeowners association (HOA), this was addressed during phase two; common outdoor living space does not require an HOA. Rasmussen reviewed the difference between "common living space" and "private outdoor living space", noting the definitions are complex and technical.
5. Regarding the northeast lot building height, additional information has been provided on sheet EX1.O.
6. In response to concerns with Don Rondema's geotech report being labeled "preliminary," planned development criteria do not require a geotech report as part of stage three; a geotech report is presented with the building plans. The report was submitted in response to public testimony and concerns about site. Rondema submitted an email in December stating that his report is not preliminary. Rasmussen reviewed Rondema's technical expertise.

7. In response to suggested approval conditions from the Friends of Cannon Beach group, they are not appropriate at this time.

In response to questions from Kerr, Rasmussen confirmed that common areas including the driveway will be accessed by an easement. He also confirmed that the easement will be part of the deed records and therefore be in place years down the road if/when property is sold. In response to questions from Johnson regarding the proposed landscape plan, Rasmussen clarified that each dwelling will not cover the entire building envelope; buildings will be limited by setbacks and conditions of the preliminary approval. Johnson stated multiple concerns with the proposed landscape plan. In response to Johnson's concerns, Rasmussen stated that the planned development criteria are not as stringent as Design Review Board criteria. Kerr stated concerns with the building height of the dwelling located on the northeast lot. Rasmussen stated that the zoning code height requirements will be followed. A lengthy discussion regarding elevation calculations ensued. Rasmussen noted that what was approved as part of the preliminary plan is what is shown. In response to a question from Lundy regarding building height, Barnes stated that the elevation on a sloping lot is the average of the 4 corners and height is measured from that point. The maximum building height for a 5/12 pitch roof is 28 feet. The Commissioners discussed lot 4 in detail.

Jeff Nicholson, 4190 SW Council Crest Dr., Portland OR 97239, the applicant, gave testimony. He stated he is working with Beth Holland on the living wall, noting her recommendations for the most viable plants. Nicholson distributed a photograph showing an existing retaining wall on Elk Creek Road, adjacent to Tolovana Architects, showing how easily plants grow and how this wall has become a "living" wall. In response to questions from Johnson, Nicholson noted plants will be planted in top soil within the concrete and has confidence in Holland's expertise determining what plants will grow well. Nicholson distributed an artist rendering to give the Commission a visual of what the development could look like. In response to Kerr's concern regarding not being able to predict what the homes will look like if they are built in the future, Nicholson stated that the City has a strict building code that will need to be followed whenever those dwellings are built. Rasmussen reviewed application requirements for a planned development stating that those plans will be overlaid with the building code and zoning ordinance. Bennett expressed concerns with the home in the northeast lot and the artist rendering showing the dwelling on stilts. Rasmussen stated the 28' height restriction will be based on the lowest habitable floor. Barnes noted a discrepancy in how the applicant is calculating maximum building height with the zoning ordinance criteria. Commissioners expressed concerns with the proposed dwelling on stilts. In response to a question from Patrick, Rasmussen stated that the plans will follow the tree retention plan.

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

Chair Lundy called for opponents of the request.

Jeffery Gottfried, 524 N Laurel, 7040 SW 84th Ave, Portland OR 97223, gave testimony in opposition. Specifically Gottfried expressed concerns with the previously presented plans and lack of detail. Additionally, he noted concerns with the retaining wall and removing vegetation and the possible negative impact on soil stability. Gottfried recommended a bond be put in place to cover any possible damages to surrounding property. Gottfried recalled damage to adjacent property due to previous pile driving in that area; he has concerns that the applicant will use pile driving although the application does not state that it will or will not.

Jane Emrick, 810 N Oak, 1260 NW Naito Parkway #501, Portland OR 97209, gave testimony in opposition. Her letter can be found in the record file.

Diane Amos, PO Box 494, Cannon Beach OR 97110, gave testimony in opposition, specifically concerns with the retaining wall. Amos requested the Commission ask for a specific plan noting the length of time it will take for vegetation growth to cover the wall and request a bond to cover maintenance costs.

Jeff Harrison, 11445 NW Permian Drive Portland OR 97229, representing Friends of Cannon Beach gave testimony in opposition. He asked for those in the audience who are in opposition to please stand up; he counted 27 individuals. Harrison thanked the Commission for continuing the public hearing and stated that this application is not a good fit for the planned development code and the development is not a good fit with the community. He noted concerns with the proposed retaining wall. Harrison reviewed the history of this application beginning with the denied development permit. Specifically Harrison stated concerns with the City setting precedents for future

planned development applications. He continued to state concerns with the application, including the preliminary geotech report and proposed retaining wall. Harrison requested the Commission recommend denial to the City Council or if approved he asked the Commission consider the proposed conditions presented in the letter from the Friends of Cannon Beach.

Chair Lundy asked for staff response, asking Barnes if any future home built on this property would be subject to the building permit process and require compliance with all zone requirements. Barnes stated yes, noting that they will also be required to comply with conditions, such as the 20 foot setback from Laurel Street. Barnes recommend the proposed building height be confirmed, noting the development would need to comply with conditions and approved drawings. In response to a question from Kerr, Barnes reviewed the procedural differences between a planned development and a subdivision, noting that this may look similar to a 4 lot subdivision when all is said and done. Barnes stated the Commission may choose to place conditions on the retaining wall. In response to questions from Johnson regarding the proposed dwelling on stilts, Barnes reviewed building height code requirements: 28 feet to the ridge-line of a sloping roof, measured from the average grade; and 24 feet to the top of a flat roof, also measured from the average grade. In response to Commissioner discussion, Barnes stated that each building will require engineering as part of the building permit process.

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

Chair Lundy closed the public hearing.

Johnson expressed concern with setting a precedent for future planned development applications. Bernt stated he would recommend denial to Council for the same reasons the Commission recommended denial at stage one.

Motion: Bernt moved to recommend denial of the application to the City Council; Bennett seconded the motion.

Bernt noted issues with the proposed height for the home on lot 4, shared responsibility for common space with no HOA in place, construction on the site possibly causing damage on adjacent property, and the lack of a performance bond. Kerr echoed Bernt's concerns that no party has offered insurance in case of damage resulting from construction. Kerr feels this application does not comply with the purpose or intent of the planned development code. Patrick noted that if the Commission does recommend the Council approve the application, it would be their opportunity to recommend conditions, such as having a geologist on site and a requirement for a performance bond. Johnson noted specifically his concerns: no detailed building plans, no detailed landscape plan, no HOA, no bond, no schedule for building, discrepancy in measurement of building height for the building located on lot 4, the proposed retaining wall does not fit into a residential neighborhood, no relevant arborist report is presented, and the geotech report appears to be preliminary and not conclusive. Kerr stated that the Commission does not have an idea of the appearance of the development, which is important to the City and the neighboring properties.

Kerr stated that it was her hope that this time the Council will thoroughly review the plans before them in the process of making their decision.

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

(5) Public Hearing and Consideration of CU 16-01, City of Cannon Beach, After the Fact Conditional Use Permit

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; Section 17.30.030, Estuary (E) Zone, Conditional uses permitted; and section 17.42.030.A.1.

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 conflict of interest. Patrick stated she is in the notification area and therefore is recusing herself. Patrick left the dais. 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. No ex parte contacts were noted. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report reviewing emergency action taken by the City and Breakers Point Homeowners Association (BPHOA) in detail, noting this application involves two separate elements: active restoration and remedial dune grading. In response to a question from Kerr, Barnes stated that the decision to proceed with action was made by the Public Works Director and City Manager. Barnes noted that the appropriate agencies were notified of this action.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence located on the dais.

In response to a question from Bernt, Barnes stated there has been some undercutting in that area of restoration and erosion is still a problem.

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.

Dan Grassick, Public Works Director, gave a presentation reviewing the application in additional detail and the events leading up to the required action. Grassick reviewed the approved "burrito" stabilization project for that location, noting that the application is still being processed by other agencies. That project is meant to significantly improve stabilization at this location. In response to a question from Kerr regarding the need for an Oregon State Parks permit, Grassick stated that the sand was removed east of the vegetation line and on BPHOA property. In response to a question from Johnson, Grassick confirmed that the location has been monitored for several months and the City was optimistic the burrito project would have been okayed before any action needed to be taken. Substantial storms, rainfall, and king tides caused damage that required emergency action. In response to a question from Lundy, Grassick confirmed that BPHOA is the primary applicant for the burrito project and the City is a co-applicant.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, BPHOA manager, gave a presentation. Francis distributed a map to the Commissioners showing the area sand was removed from in order to stabilize the bank with clean sand. Francis reviewed the emergency action taken, noting the potential loss of the end of Larch Street and the exposed natural gas main. Francis addressed statements in letters from opposition, noting the information as incorrect. Specifically, permission was not needed from Oregon Parks and Recreation Department because of the sand removal location. Francis stated that the Ocean Management (OM) zone allows grading up to 35 feet from public improvements, in this case the boardwalk public access. The boardwalk is in need of replacement and there is also a need for emergency vehicle access at that location. Grading took place south of the boardwalk to gain access for the boardwalk replacement and emergency vehicle access. Francis stated that, as a courtesy, he has been in communication with Jay Sennewald with Oregon Parks and Recreation regarding the application. In response to questions from Johnson, Francis gave a history on development based on the Rosenfeld line, noting the vegetative line divides Oregon Parks and Recreation property from BPHOA property.

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

Chair Lundy called for opponents of the request.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, stated she is neither a proponent nor an opponent, but questions the process for this application, wondering if it could have been handled differently. She also expressed concern with the aesthetic, asking if it will remain flat or be revegetated. Francis answered that they will need to determine cross sections and FEMA +4 before they move forward with revegetation. The Commissioners discussed revegetation options, including coordination with the previously approved conditional use for dune grading. Siebert-Wahrmund noted signs posted at the site from Oregon State Parks regarding a possible hearing. Barnes reviewed the Oregon State Parks hearing process. Siebert-Wahrmund stated that she does believe this was an emergency situation; however, she has concerns with how it was done. She stated she does not want riprap in the estuary.

Rex Amos, PO Box 494, Cannon Beach OR 97110, asked if the City is going to allow a permanent beach access road at that location. Lundy stated that he believes the City has asked for emergency vehicle access.

Jeff Harrison, 11445 NW Permian Drive Portland OR 97229, representing himself and his wife Jennifer, gave testimony in opposition. He applauds the cooperation handling the emergency event, but, he does have concerns: he believes the crest of the dune was modified, which is not allowed during remedial grading, questions whether or not this emergency action was used to grade for view, if this area is revegetated like the test area it will remain barren and sparse for some time, allowing for extensive sand movement. He requested the area be replanted but not sparsely.

Chair Lundy asked for staff response. There was no staff response.

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

Francis agreed with Harrison that the area should be revegetated; his preference is European beach grass. He asked that south of the boardwalk remain unplanted to allow emergency access.

Chair Lundy closed the public hearing.

In response to a question from Johnson, Barnes stated that 5th Street has been used to access the beach in the past. Staff has been in regular communication with fire and police regarding better beach access on the north end. Johnson expressed concern with using European beach grass to revegetate, as it is part of the issue with sand build up. Johnson led a lengthy discussion on revegetation.

Motion: Johnson moved to approve the application with the conditions that the graded area be revegetated with native plants with the exception of the 8-10 foot strip adjacent to the boardwalk to provide emergency access; the applicant shall present a revegetation plan within 90 days, and confirmation shall be provided by the applicant confirming that the FEMA +4 standard and 1,100 square foot cross-sectional area standard are met.

Commissioners discussed Johnson's motion at length, clarifying that native plants be used for revegetation. Kerr stated concerns that the area may not look good for quite some time if using native plants. The Commissioners continued to discuss revegetation at length.

Bernt seconded the motion.

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

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

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

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

INFORMATIONAL ITEMS

(7) Tree Removal Permits

Barnes noted that the request for removal of two trees located at 5th and Larch Streets are out for public comment. If the decision is appealed it will come before the Commission.

(8) Ongoing Planning Items

Barnes stated that the City Council will be looking at appointing a new Commission member at their February meeting. Barnes advised the Commission that Statements of Economic Interest will be due soon. They will be web-based, rather than paper, this year. Staff is able to assist if needed. Barnes stated he has been working on getting training scheduled for the Commissioners but is waiting for the 7th Commission member to be appointed before scheduling.

(9) Good of the Order

Jan Siebert-Wahrmund spoke about the tree removal notification, noting an application to remove 16 alder trees on Ecola Park Road.

Rex Amos spoke regarding the arborist report presented by Luke Colvin for the trees located at 5th and Larch Streets. He noted Colvin found rot in his bore samples. He questioned if there is a conflict of interest because Colvin might possibly be the arborist hired to remove those trees.

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Administrative Assistant Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, February 25, 2016

Present: Chair Bob Lundy; Commissioners Joseph Bernt, Charles Bennett, 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: Bennett moved to approve the agenda; Johnson seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meeting of January 28, 2016

Kerr added additional comments to the minutes.

Motion: Bernt moved to approve the January 28, 2016 minutes as amended; Patrick seconded the motion.

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

(3) Public Hearing and Consideration of SR 15-05, David Vonada Setback Reduction Request for 159 Center Street

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report discussing the survey and any questions about a possible easement. Barnes clarified with the Commissioners what is within their purview in regards to easements. In response to questions from Lundy, Barnes stated that the fire department will be reviewing the plans during the building permit process.

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

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.

David Vonada, PO Box 648, Tolovana Park 97110, on behalf of the property owner's, Fred and Margo Silvester, gave a presentation. Vonada presented a site plan showing contours, stating the hardship is in regards to access and parking. The Commissioners discussed concerns with the closeness of a shed on the neighboring property to the proposed garage addition.

Fred Silvester, 5591 Twin Creek, Salt Lake City UT 84108, property owner, gave a presentation, giving a detailed history of the property and an extinguished easement, referring to correspondence from Christopher Palmer.

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 reviewed criteria for granting a setback.

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

Chair Lundy closed the public hearing and moved to consideration.

Commissioners discussed the application in detail. Concerns over the proximity of the proposed garage addition and the shed located on the neighboring property were discussed.

Motion: Johnson moved to deny SR 15-05; Kerr seconded the motion.

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

(4) Public Hearing and Consideration of V 16-01, Frank and Valerie Swedenborg Request for a Floor Area Ratio (FAR) and Setback Reduction at 587 and 595 Antler Streets

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence presented to the Commissioners at the dais. Barnes further noted that one letter has requested a continuation of the public hearing.

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.

Frank Swedenborg, PO Box 3, Cannon Beach OR 97110, gave a presentation.

Rod Graham, 3025 SW 1st Street, Portland OR 97201, architect, gave a presentation. Graham reviewed design aspects, stating that the units are to be designed to allow “aging in place”. In response to Kerr, Graham stated that an HOA or similar will be put into place to insure all owners contribute to property upkeep.

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

Chair Lundy called for opponents of the request.

Jan Siebert-Wahurmund, PO Box 778, Cannon Beach OR 97110, gave testimony in opposition stating concerns that this application is a four-plex.

Chair Lundy asked for staff response. There were not additional staff comments.

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

Lundy stated he is hoping to get more neighbor input regarding the application.

Motion: Johnson moved to continue the public hearing to the March 24, 2016 Planning Commission meeting in the Council Chambers at 6:00pm; Bennett seconded the motion.

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

(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, Johnson, Kerr, Patrick, and Lundy voted AYE; the vote was 6/0 in favor and the motion passed.

INFORMATIONAL ITEMS

(6) Tree Removal Permits

No discussion.

(7) Statement of Economic Interest (SEI)

Barnes distributed a letter to the Commissioners regarding the SEI. Barnes stated the importance of completing the SEI.

(8) Ongoing Planning Items

Barnes stated two future items: tree removal ordinance amendments and additional “housekeeping” ordinance amendments.

(9) Good of the Order

In response to a question from Bernt, Barnes stated that a previously denied deck extension by the Commission has moved forward after the applicant removed hard surface to negate the lot coverage issue that cause the remodel to come before the Commission for a variance. The building permit was reviewed and issued.

In response to a question from Lundy, Barnes stated that the City is looking to schedule training for the Commission and Design Review Board in April or May.

ADJOURNMENT

The meeting adjourned at 7:39 p.m.

Administrative Assistant Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, March 24, 2016

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

Excused: Charles Bennett, Lisa Kerr, Robin Risley

Staff: City Planner Mark Barnes, Public Works Director Dan Grassick and Recorder Tracy McGill

CALL TO ORDER

Chair Lundy called the meeting to order at 6:00 p.m. Lundy announced that Robin Risley has been appointed to the Planning Commission but that she is excused from this meeting due to her husband's recent accident and hospitalization.

ACTION ITEMS

(1) Approval of Agenda

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

Vote: Bernt, Johnson, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed.

(2) Consideration of the Minutes for the Planning Commission Meeting of February 25, 2016

Motion: Bernt moved to approve the February 25, 2016 minutes as presented; Patrick seconded the motion.

Vote: Bernt, Johnson, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed.

(3) Continuation of the Public Hearing and Consideration of V 16-01, Frank and Valerie Swedenborg Request for a Floor Area Ration (FAR) and Setback Reduction at 587 and 595 Antler Street.

Chair Lundy introduced the item, stating that this request will be reviewed against the criteria of Municipal Code Chapter 17.64, Setback Reduction and noted that it was a continuation of the February 25, 2016 hearing.

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report and identified additional written correspondence that has been received and is incorporated in the record. Barnes summarized the process that could be used to determine their action.

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.

Rod Graham, 3025 SW 1st Street, Portland, OR 97201, gave a presentation and provided a site map which are included in the record. He explained that the applicant wished to build two duplexes on two adjoining lots with a common elevator, fire wall and courtyard. In response to a question from Johnson, Graham reviewed the parking options. He also explained the setbacks that are incorporated into the site plan. Graham reviewed the features that have been incorporated into the plans required for aging in place and why that necessitated a reduced side yard setback and increased floor area ratio.

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

Chair Lundy called for opponents of the request.

Jan Siebert-Wahurmund, PO Box 778, Cannon Beach OR 97110 gave testimony in opposition stating concerns that this application is a four-plex and she is concerned that approval of this application would set a precedence.

Chair Lundy asked for staff response and Barnes stated that Cannon Beach code does not provide a definition for two attached duplexes, but he presented a copy of the definition used in Portland for reference.

Chair Lundy asked if the applicant wished to make any additional statements. Graham clarified that the diagram of two duplexes within allowed setbacks on the adjoining lot was for demonstration purposes only. Lundy asked for clarification of whether the parking is considered part of the 50 percent lot coverage rule. Barnes said that it is included in the lot coverage but not in the floor area ratio.

Lundy closed the public hearing

Motion: Johnson moved to deny the variances for this project; Bernt seconded the motion.

Vote: Bernt, Johnson, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed.

(4) Public Hearing and Consideration of CU 16-02, Cannon Beach Distillery Conditional Use Request for 1315 S. Hemlock.

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 Standards.

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report and in response to a question from Lundy clarified that this business is only utilizing a portion of the building, and that other tenants will remain in the building as well.

Chair Lundy asked if there was additional correspondence. There was none.

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.

Michael Selberg, PO Box 264, Cannon Beach 97110 made a presentation explaining that they are trying to move their current operation to the new address with the same equipment in the same manner. He explained that they are looking for additional storage and a way to improve safety associated with the storage of flammable liquids. He noted that the new location will allow greater production and financial viability.

Chair Lundy called for proponents of the request.

Marty Schwab Harris PO Box 1452, Cannon Beach, OR 97110 gave testimony in support of the application.

Chair Lundy called for opponents of the request.

Jan Siebert-Wahurmund, PO Box 778, Cannon Beach, OR 97110 testified that she was concerned about whether this would have an impact on the City water and waste water facilities.

Chair Lundy asked for staff response and Grassick explained that 90 percent of the water does not get exported out of the water shed so the negative impact is negligible.

Chair Lundy asked if the applicant wished to make any additional statements. Selberg said that they do everything they can to recycle the water and we try to stay as sustainable and environmentally conscious as possible. Bernt asked about the typical summer cycle of people coming through the distillery and Selberg says they are very busy in the tasting room during the summer, often generating lines of people waiting when they open for the day.

Motion: Patrick moved to approve the conditional use permit; Berndt seconded the motion.

Vote: Bennett, Bernt, Johnson, Kerr, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed.

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

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

Vote: Bennett, Bernt, Johnson, Kerr, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed.

INFORMATIONAL ITEMS

(6) Tree Removal Permits

No discussion

(7) Ongoing Planning Items

Barnes advised the Commission of the City Council's action regarding the Nicholson application.

(8) Good of the Order

Jan Siebert Wahrmund said she is concerned about public notice and input regarding the tree removal process. Barnes stated that a draft for the updated tree ordinance will be brought to the Commission within the next month or two.

Bernt asked about the Ethics registration process and Barnes stated that he would follow up.

ADJOURNMENT

The meeting adjourned at 7:28 p.m.

Recorder Tracy McGill

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, April 28, 2016

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

Excused: Commissioner Robin Risley

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

(2) Consideration of the Minutes for the Planning Commission Meeting of March 24, 2016

Motion: Bernt moved to approve the March 24, 2016 minutes as presented; Johnson seconded the motion.

Vote: Bernt, Johnson, Patrick, and Lundy voted AYE; the vote was 4/0 in favor and the motion passed. Commissioners Bennett and Kerr abstained as they were not present at the March 24, 2016 meeting.

(3) Public Hearing and Consideration of V 16-02, David Vonada Variance Request on Behalf of Property Owners Nathan and Sarah Austria for a Variance to the Maximum Floor Area Ratio, and for a Variance to the Maximum Building Height, to Remodel Their Existing Residence at 172 W Harrison Street, Map/Tax Lot 51030AD/8201

Chair Lundy introduced the item, noting that this request will be reviewed against the criteria of the Municipal Code, Section 17.84.030 Variances, Criteria for granting. Barnes noted a correction to the staff report, stating that the property is located north of a Residential Motel (RM) zone and west of motel property.

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 conflict 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. 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 floor area ratio request is past the threshold for an administrative decision, further noting that the request is to keep the floor area ratio the same as it is currently. In response to a question from Lundy regarding the roof, Barnes stated that the Commissioners will need to ask questions of Vonada and make the determination whether or not it should be treated as a flat roof, a pitched roof, or combined. Barnes noted that a pitched roof is greater than 5:12, and a flat roof is less than 5:12.

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

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.

David Vonada, PO Box 648, Tolovana Park OR 97145, representing the property owner, gave a presentation. Vonada reviewed the project drawings presented in the Commissioner's materials. He noted that the goal is to update the physical appearance of the home and to get it closer to conformance with the City code. Vonada noted there is no record of an approved variance from the City that would have allowed the home to be built nonconforming. The Austrias were under the impression that no variance was required, and therefore unaware of the nonconforming issue, when they purchased the property. Vonada noted a consideration from the previous application that was denied by this Commission, noting changes to the design based on the previous public hearing. The Commissioners discussed with Vonada whether or not the roof should be considered pitched or flat.

The Commissioners discussed the roof at length. Patrick commented that this proposal is a compromise from the previously submitted plan. In response to a question from Kerr, Barnes confirmed that no records were found regarding any previous variances granted, but that doesn't necessarily mean there hadn't been a variance granted in the past. The Commissioners discussed alternative designs with Vonada. In response to the conversation, Vonada stated that any other option would significantly reduce living space as well as be costly.

Chair Lundy called for proponents of the request.

Sarah Austria, 172 W Harrison, 11356 SW Artesa Court, Portland, OR 97225, the property owner, gave a presentation. She noted that all the improvements would bring the home closer to being compliant as well as having a positive effect for adjacent property owners. Austria noted correspondence in the Commissioner's materials from Claudia with Cannon Beach Hotel offering her support for the project. She further noted that the home needs a new roof regardless. In response to a question from Kerr, Austria stated the home was built in a way that all the communal living space is located on the third floor.

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

Chair Lundy asked for a staff response. Barnes stated that if Commissioners need additional information regarding the roof, he can give additional information. In response to a question from Kerr, Barnes reviewed how roofs are dealt with administratively, stated that the Commission is not bound by staff interpretations.

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

Johnson stated that he interprets the roof as flat, and therefore building height is limited to twenty-four feet. Patrick stated her belief, that the application represents the best possible plan for lowering the existing roof. Patrick further stated concern with Commissioners suggesting the third floor be removed in order to be compliant and the suggestion that the Austrias did not do their due diligence at the time of purchase. Commissioners discussed the roof at length.

Motion: Bernt moved to deny V 16-02 in regards to the roof height; Kerr seconded the motion.

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

Motion: Johnson moved to deny V 16-02 in regards to the floor area ratio; Bernt seconded the motion.

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

(4) Public Hearing and Consideration of V 16-03, David Vonada Variance Request on Behalf of Property Owners Filene and Holly Alleva for a Variance to the Minimum Front-yard Setback for Construction of a New Single-family Residence at 1680 Forest Lawn Road, Map/Tax Lots 51030DA/4700

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting a correction: the ocean front setback line is indicated on the drawings. Barnes stated the application may be considered a setback reduction and not a variance. He reviewed the criteria for both a variance and setback reduction in respect to this application. Barnes stated that in regards to the public hearing notice this should be viewed as a variance, as advertised. If the Commissioners feel this is a setback reduction they may recommend the applicant come back to the Commission with a setback reduction application. In response to Commissioners' questions, Barnes reviewed setback criteria in regards to the ocean front side and the vegetation line. Kerr stated her opinion that this should be a setback reduction.

Chair Lundy asked if there was additional correspondence. Barnes noted additional correspondence

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.

David Vonada, PO Box 648, Tolovana Park OR 97145, representing the property owner, gave a presentation. Vonada reviewed the application in detail noting the safety concerns with building the home with the required front-yard setback. He reviewed Don Rondema's preliminary recommendations. The Commissioners and Vonada discussed the soil in detail. Vonada noted that if the home was moved to comply with setbacks it would impact the adjacent property views negatively.

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 a staff response. Barnes noted a letter from Durbin stating possible fire issues. Barnes stated that the fire department has not commented on this application and that, due to the width of the road, fire access does not appear to be an issue.

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

The Commissioners discussed the application. Kerr reviewed the variance criteria and believes this application presents extraordinary circumstances in regards to safety. In response to a question from Bernt, Vonada stated the current house is not able to be remodeled and that the proposed new structure will be built to current safety standards. In response to Kerr, Vonada noted the original house was built in 1964. Lundy stated the possibility that the home could be built further back and the pilings could be bored deeper. Johnson noted concerns with a new structure not being built to code. Kerr noted the preexisting conditions of this home and pointed out that the adjacent homes are also located within the required front-yard setback.

Motion: Bernt moved to approve V 16-03; Bennett seconded the motion.

Kerr asked for clarification of the motion, asking that the Commission is not allowing any height variance. Bernt confirmed that the variance is in regard to the front-yard setback only.

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

(5) 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, Johnson, Kerr, Patrick, and Lundy voted AYE; the vote was 6/0 in favor, and the motion passed.

INFORMATIONAL ITEMS

(6) Work Session - Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Lundy noted grammatical corrections and inquired if the online copy of ordinances could be converted to a searchable format. Barnes stated the City could look into that, further stating that the City has the need and desire to have all records scanned and stored electronically.

Barnes reviewed the proposed amendments.

The Planning Commission will hold a work session at the May 26, 2016 meeting.

(7) Tree Removal Permits

No discussion.

(8) Ongoing Planning Items

Barnes stated that City Council's approval of PD 15-01, Nicholson, has been appealed to the Land Use Board of Appeals (LUBA). Staff will keep the Commissioners posted on the outcome. Barnes stated that if the property is sold the permits are transferable with the land. If the project is abandoned the property would have to come back before the City Council to remove the PUD overlay. Barnes confirmed that the lots are not subdivided. The plat will not be recorded until after LUBA makes their final decision. In response to a question from Bernt, Barnes stated that staff can distribute the LUBA brief once it is available.

Barnes stated that the Commission's denial of Sylvester (SR 15-05) was appealed; the City Council upheld the Planning Commission's decision.

In response to Lundy regarding training, Barnes stated that we are getting closer to setting a date. Design Review Board members will also be attending. City Councilors may also attend, as they deal with land use issues as well.

(9) Good of the Order

No discussion.

ADJOURNMENT

The meeting adjourned at 7:32 p.m.

Administrative Assistant, Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, May 26, 2016

Present: Chair Robert Lundy; Commissioners Joseph Bernt, Charles Bennett, Hank Johnson, Janet Patrick, and Robin Risley

Excused: Commissioner Kerr

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

Lundy noted he would like to discuss the tree ordinance first during the work session discussion.

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

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

(2) Consideration of the Minutes for the Planning Commission Meeting of April 28, 2016

Johnson stated that he did not vote to approve V 16-03 as noted in the April 28, 2016 minutes.

Patrick stated she felt relevant discussion was not included in the minutes for item (3), public hearing and consideration of V 16-02.

The Commission discussed the minutes at length. Johnson stated he would like to see more detailed minutes prepared. The Commissioners discussed meeting audio. Gregory stated that the audio from each meeting is posted on the City website.

Patrick will be emailing Gregory with additional statements to be included in the April 28, 2016 meeting that will be reviewed at the next meeting.

Gregory reminded the Commission that draft minutes are sent out one week prior to the scheduled meetings. If any Commissioner feels something needs to be corrected or added, they may email those changes to be included in the minutes to be voted on at the meeting.

INFORMATIONAL ITEMS

(3) Work Session - Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Tree ordinance. The Commissioners reviewed suggestions presented in a letter from Commissioner Kerr. Barnes stated that page 31, paragraph I., of the proposed amendments creates an administrative issue. The code is interpreted as only allowing adjacent property owners a chance to comment and/or appeal. The Commissioners discussed the interpretation; Lundy, Risley, and Bennett all agreed that the comment and/or appeal requirement should be available for all property owners, not just those within 100 feet of the tree located in the right-of-way.

Bernt led a discussion on invasive trees. Johnson recommended that non-native and ornamental trees be considered a viable option when planting. Audience member, and member of Friends of the Trees, Jan Siebert-Wahrmund, suggested adding a clear definition of “native tree,” “invasive tree,” “heritage tree,” and “ornamental

tree,” along with a list of examples. Lundy suggested Siebert-Wahrmund come up with a draft and present it to the Commission. The Commission discussed a more defined list. Barnes will poll existing lists from the City’s arborist, the Forestry Department, and the City’s Parks Committee. A refined list will be brought to the Commission for review.

In regards to Kerr’s suggested addition to the ordinance, Bennett inquired how the Commission felt about adding clarification that allows an independent arborist access to the subject property. The Commission agreed to add the language. Barnes stated the City will also add the language to the tree removal permit application.

Siebert-Wahrmund made amendment recommendations. She also expressed concern that trees were removed from the RV Park without a tree removal permit application being submitted by the City.

Dark sky ordinance. Barnes confirmed to Johnson that the Design Review Board has reviewed the suggested ordinance amendments and agree with them. Barnes led a discussion on backlight, uplight, and glare (BUG) ratings.

Slope/density. Barnes reviewed the background behind the suggested amendments, stating the City’s land use attorney, Bill Kabeiseman, suggested the proposed changes to clarify the language and eliminate any interpretive language. The Commissioners agreed to the proposed amendments.

Appeal period. Commissioners discussed the length of time given to appeal a land use decision. At the conclusion of the discussion Commissioners agreed to change the allowed time to fifteen days.

Short-term rentals. Barnes stated that a more extensive amendment may be considered in the future. Right now the only proposed amendment is to temporarily suspend awarding transient rental permits by means of the transient rental lottery until the City Council has time to look at amending this section of the zoning ordinance.

Government structures, schools. Barnes noted this codifies a Planning Commission interpretation, adding “and public schools” to 17.22.030.C.

Cannon Beach Elementary School site. Barnes noted amendments to clarify this section, reflecting generally the current situation without changing the substance.

Hardscape/Softscape. Barnes noted that the proposed amendments codify previous Design Review Board interpretations on the subject.

PODS/Dumpsters. The Commissioners discussed the use of portable storage containers with Barnes. Barnes will implement the Commissioners’ notes in the draft amendments.

Planned Development. Barnes gave a background on the proposed amendments, noting that the Mayor directed staff to make changes to the existing code to eliminate any potential interpretation issues. The Commissioners discussed proposed amendments at length. The Commissioners also discussed the previous planned development application, by Jeff Nicholson, at length.

The Commissioners agreed to have Barnes bring the amendments forward for a public hearing.

(4) Tree Removal Permits

No discussion.

(5) Ongoing Planning Items

None at this time.

(6) Good of the Order

In response to a question from Bernt regarding training, Barnes stated that he will be resending possible dates after discussing availability with the trainer.

Lundy formally introduced and welcomed new Planning Commissioner Robin Risley. Barnes noted that Risley is also a member of the County Planning Commission.

ADJOURNMENT

The meeting adjourned at 8:27 p.m.

Administrative Assistant, Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, July 21, 2016

Present: Chair Robert Lundy; Commissioners Janet Patrick, Charles Bennett, Hank Johnson, and Robin Risley and Lisa Kerr

Excused: Commissioner Joseph Bernt

Staff: City Planner Mark Barnes and Recorder Tracy McGill

CALL TO ORDER

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

ACTION ITEMS

(1) Approval of Agenda

Lundy polled the audience about which issues most parties were intending to address and then stated that based on public interest he would like to discuss the short term rental ordinance first during the public hearing period.

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

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

(2) Consideration of the Minutes for the Planning Commission Meetings of April 28, 2016 and May 26, 2016

Motion: Bennett moved to approve the minutes of April 28, 2016 as revised; Patrick seconded the motion.

Vote: Bennett, Johnson, Patrick, Kerr, and Lundy voted AYE; Risley abstained as she was not present at the meeting; the vote was 5/0 in favor and the motion passed.

Motion: Risley moved to approve the minutes of May 26, 2016 as presented; Johnson seconded the motion.

Vote: Bennett, Johnson, Patrick, Risley, and Lundy voted AYE; Kerr abstained as she was not present at the meeting; the vote was 5/0 in favor and the motion passed.

(3) Public Hearing and Consideration of CP16-01: Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Chair Lundy stated that this is a legislative matter. No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest regarding the entire issue, and Lundy stated that he would address each item individually and allow each Commissioner to declare any bias or conflict on the specific issue.

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

Chair Lundy opened the public hearing and stated that the pertinent criteria to be considered is noted in the staff report and listed on the criteria sheet next to the west door; Testimony, arguments and evidence must be directed toward those criteria or other criteria in the Comprehensive Plan or Municipal Code which the person testifying

believes to apply to the decision; Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue; Persons who testify shall first receive recognition from the chair, state their full name and mailing address, and if appearing in a representative capacity, identify whom they represent.

Short Term Rentals: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the short term rental issue. Robin Risley stated that she makes a living as a realtor but doesn't have a property management license or handle short term rentals so she doesn't feel it is a conflict. No Commissioner expressed bias.

Barnes summarized his staff report regarding the short-term rental issue. He provided a brief history of the program and explanation about how the program operates. He clarified that this proposed amendment had no effect on the 14 day licenses and only applied to the nightly transient rental permits that are issued by lottery.

Chair Lundy called for testimony by proponents of the request and there were none.

Chair Lundy called for testimony by opponents of the request. In response to a question from the audience, Barnes clarified that this item only applies to new lottery draws while the City Council reviews the program. He also stated that the City Council had not established a specific timeline for the review process.

Les Wierson, P.O. Box 543, Cannon Beach, OR spoke in opposition to the hold on drawing new lottery permits for nightly rentals. He provided historical development of the short term rental program and said that he opposes the open ended suspension of the lottery drawing that is currently functioning.

Alaina Giguere, P.O. Box 474, Cannon Beach, OR stated that she is a realtor but that does not manage short term rentals. She noted that she has been in Cannon Beach since the plan was originally established and believes that the Council is overreacting to the issue of a long term rental housing shortage. She said she believes that since the program is in place and the rules are working, it is inappropriate to stop what is working now while the City Council reviews the issue.

Joe Petrina, 3706 NE Davis, Portland, OR stated that he has a short term rental at 139 Elliott Way and he agrees with Giguere. He also noted that he would never turn his home into a long term rental because he wants the flexibility to use his house. He explained that he rents it on a short term basis to make sure that the house is occupied and well cared for. He said he believes that if the City Council eliminates the program, some homeowners might start renting "under the table" and that will give the City less ability to control and enforce short term rentals. He also said he doesn't think they should suspend any portion of the program until they spend time considering options.

Pat Sparks, 14708 NE 16th St., Vancouver, WA stated that she has owned property since 1986 and that she rents one of her properties on a long term basis, and another on a short term basis. She stated that she believes that citizens and Commissioners need to recognize that Cannon Beach has become a resort town and the two week rental program provides security for residents. She noted that her neighbors like having the visitors and the property managers keeping the house well maintained.

Carol McRae, 1335 3rd Ave, #222, Longview, WA stated that she is one of the earliest short term rental owners in town and she has a local property manager. She said that it is a wonderful experience and she doesn't believe that terminating the short term rental program will resolve the long term rental problems.

Steve Crane, P.O. Box 135 Tolovana Park, OR said he has lived in Cannon Beach for 8 years and he is lucky to have a long term rental. He said that the absentee owners in the area don't care for their homes as well as the homes that are professionally managed in the rental program. He said that he thinks it would be a travesty to make any changes to the program.

Steve Fulkerson, 3187 Pacific St., Tolovana Park, OR said that he is in his second year with a five year transient rental permit and he is in favor of keeping the program in place. He expressed concern about the City process for this review. He also noted that Cannon Beach Property Management does an excellent job renting their home.

Molly Jaber, POB 1496, Cannon Beach, OR stated that she is concerned about the suspension of the existing program without any established finishing date. She also noted that while the parking problem is historical, having short term rentals helps reduce that problem because it allows people who have a parking space to bring money into the town without the impact to parking caused by people visiting for only the day. She also noted that it gives larger families the opportunity to enjoy Cannon Beach and stay without renting 4 hotel rooms. She said that she doesn't think limiting short term rental limits will increase the number of long term rentals.

Sara Clark, 2232 42nd Ave., Longview, WA said she has owned a house in Cannon Beach since 1977 and has made many improvements to the house. She noted that one of the funding sources for those improvements has been the revenue from short term rentals. She also expressed concern that change in tradition is inevitable and one of those is that Cannon Beach is a place for families to come and vacation. She said that we cannot stop change or go back to the way things were. She said that she feels that process for this issue so far has been very confusing and she is concerned that the City Council has tasked the Planning Commission with a job without good procedures or any time limits. She thanked the Planning Commission for their time and consideration of this issue.

Wayne Sparks, said that when he looked at this summary of the City Council process of considering a major overhaul of the program it seems unreasonable to stop the existing process before they study the issue and determine if it needs to be stopped. He expressed concern that if there isn't reasonable housing available for visitors, they will go to other areas, which will have a negative financial impact on the businesses in town and the City of Cannon Beach.

Ron Jabor, PO Box 1496 Cannon Beach, OR stated his belief that short term rentals open up lodging for the middle class since rates are more reasonable for larger families. He also noted that the houses are well cared for and the visitors bring money into this community and it allows people to buy a house here and retire to it someday.

Herb Florer, P.O. Box 231, Cannon Beach stated that he is married to Tammy Florer with Cannon Beach Property Management. He said that there are multiple property management companies in the community that are reputable and they do a good job. He noted that he thinks there are always minor tweaks that can be done to any program, but that overall, this program is generally working well at this time.

Lundy explained the notice requirements and thanked Commissioners for their flexibility in meeting twice to make sure that all interested parties could attend and provide testimony. He said that there was confusion about when this meeting was to take place and once it was identified, it was decided to hold this session and also provide another opportunity for people that were expecting it to be held next week.

In summary, Barnes clarified that the only element of the short term rental ordinance being addressed will be the five year transient lottery and that the only effect of this amendment would be to suspend the lottery if it should be adopted. He also noted that the language in the notice is required by law. In response to an audience question, Barnes explained that if the Commission acts on this issue on July 28th, the earliest that the Council could address the issue would be at their September meeting. Commissioners decided to wait until the July 28th meeting for discussion regarding this matter and the hearing was continued until that time.

Following a brief recess at 7:18 pm, the meeting was called back to order at 7:28 and the public hearing continued.

Dark Sky Ordinance: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the dark sky ordinance. No Commissioner declared a conflict of interest or expressed a bias. Barnes reviewed his staff report relating to changes in the dark sky ordinance. In response to a question from Kerr, Barnes summarized how the formula would be utilized to calculate compliance with the ordinance standards.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing was continued to the meeting July 28, 2016.

Tree Removal Ordinance: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the tree removal ordinance. No Commissioner declared a conflict of interest or expressed a bias.

Barnes reviewed his staff report regarding this issue and noted that no additional correspondence had been received regarding this issue.

Lundy asked for testimony by proponents of this issue and there was none.

Lundy asked for testimony by opponents.

Jan Siebert-Wahrmund, P.O. Box 778, Cannon Beach, OR said she is representing Friends of Trees and noted that she supports the majority of the amendments and will be providing additional clarification at the meeting on July 28, 2016. She expressed concern that the \$500.00 penalty might not be high enough to serve as a deterrent and said she supports the tree replacement policy suggested by Barnes.

Ed Johnson, P.O. Box 241, Cannon Beach, OR explained that he is a member of Friends of Trees but is not testifying as their representative. He noted that he had submitted a written statement and said that he would like to see the property notification requirement be expanded to a greater distance from the affected tree.

Larry Sparks, P.O. Box 805, Cannon Beach, OR spoke in opposition to any tree removal restrictions on private property. He testified that the founding fathers believed that private property owner's rights remained with the owner and that the Constitution protects the rights of the owner to use their property as they see fit; therefore, the City of Cannon Beach has no right to dictate what an owner can do with their tree and this draft is unconstitutional.

Janice Sparks, P.O. Box 805, Cannon Beach, OR said that some of the trees on their property are doing a lot of damage and she doesn't agree with the ordinance stating that the tree must be dead before it can be removed.

There was no other testimony regarding this matter and the hearing was continued to July 28, 2016.

Slope Density Amendments: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the slope density amendments. Risley and Kerr stated that they had voiced their opposition to a specific previous application in relation to this matter, but that they did not have a general bias regarding this issue. Lundy said that he felt they could participate.

Barnes presented his staff report and summarized activities to date on this issue.

Lundy called for testimony from proponents and there was none.

Lundy called for testimony from opponents.

Ashley Craven, 820 Culpepper Terrace, Portland, OR 97210 said that her family has had property that started out as 6 lots, then was reduced to 3 lots and that this has a negative impact on its use and value.

Jon Thrift, 8703 SE Porter Circle, Vancouver, WA said that he agrees with prior testimony about how property building requirements has become more restrictive and he is in opposition.

There was no other testimony regarding this matter and the hearing was continued to July 28, 2016.

Appeal Period: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the appeal period amendment. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the requested amendment. Lundy noted that there had been concern about the ability to receive notification in a timely manner and Barnes said that they are currently notifying interested individuals informally by e-mail as well.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing in this matter was continued to the meeting July 28, 2016.

Government Structures/Schools: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the Government Structures/Schools amendment. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the requested amendment.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing in this matter was continued to the meeting July 28, 2016.

Hardscape/Softscape: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the Government Structures/Schools amendment. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the requested amendment.

Chair Lundy called for testimony by proponents or opponents.

Ed Johnson, P.O. Box 241, Cannon Beach, OR spoke in opposition to the use of artificial turf. He explained that exposure to plastic increases the risk of cancer. He also noted that it has the potential to introduce more plastic on the beaches, further degrading the environment.

Jan Siebert-Wahrmund, P.O. Box 778, Cannon Beach, OR said that she was opposed to the use of artificial turf and agreed with the points made by the previous speaker.

There was no further testimony and the hearing was continued to July 28, 2016.

Cannon Beach Elementary School Site: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the Cannon Beach Elementary School site amendment. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the requested amendment.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing in this matter was continued to the meeting July 28, 2016.

PODS/Storage Containers: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the proposed new section regarding portable storage. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the new section.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing in this matter was continued to the meeting July 28, 2016.

Planned Development: Chair Lundy asked Commissioners whether any member needed to disclose a bias or conflict with respect to the planned development amendment. No Commissioner declared a conflict of interest or expressed a bias.

Barnes presented his staff report and summarized the reason for the new section.

Chair Lundy called for testimony by proponents or opponents and nobody wished to testify on this matter and the hearing in this matter was continued to the meeting July 28, 2016.

Motion: Commissioner Johnson moved to continue the hearing and meeting until 6:00 p.m., July 29, 2016; Kerr seconded the motion.

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

INFORMATIONAL ITEMS

(4) Ongoing Planning Items

In response to a question from Commissioners, Barnes noted that scheduling for the training project has been delayed as the consultant has been on vacation.

(5) Good of the Order

Ed Johnson and Jan Seibert-Wahrmund thanked the Commissioners for their work and diligence.

ADJOURNMENT

The meeting was adjourned at 8:48 p.m.

Tracy McGill, Recorder

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, July 28, 2016

Present: Chair Robert Lundy; Commissioners Joseph Bernt, Charles Bennett, Hank Johnson, Lisa Kerr, Janet Patrick, and Robin Risley

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

Chair Lundy asked the Commission to amend the agenda to hear the continuation of CP16-01 first.

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

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

(2) Continuation of the Public Hearing and Consideration of CP16-01: Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Chair Lundy introduced the item, stating this hearing has been continued from the June 21, 2016 Planning Commission meeting. Chair Lundy polled the the audience to see if there was anyone that could not return on August 25th to give testimony, if the hearing is continued due to the length of the agenda. A majority of attendees noted availability to testify at the August 25, 2016 meeting.

Barnes noted additional correspondence in front of the Commissioners at the dais.

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

Chair Lundy called for opponents of the request.

Dave Lang, 15007 8th Ave NE, Shoreline WA 98155, gave testimony in opposition of suspending the 5-yr transient rental lottery.

Kevin Ridgeway PO Box 170, Tolovana Park OR 97145, gave testimony in opposition of suspending the 5-yr transient rental lottery, adding that availability of short-term rentals is a critical element of the local economy.

The Commissioners agreed by consensus to continue the hearing to August 25, 2016 in the City Hall Council Chambers at 6:00 p.m.

(3) Public Hearing and Consideration of CU16-03, Request by Breakers Point Homeowners Association to Modify CU15-03, Allowing Dune Grading West 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.

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 conflict of interest. Risley stated that she is on the State Parks Commission, that OPRD is involved in other permits for this project, and that she is concerned about the appearance of bias; and therefore is recusing herself. Patrick stated she is a property owner at Breakers Point and therefore has a conflict of interest and is recusing herself. Risley and Patrick stepped down from the dais and joined 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting this request will be heard against the same criteria as the previously approved conditional use. Barnes stated that the staff report mistakenly omitted conditions 11 and 12 from pages 6 and 7, under "RECOMMENDED ACTION". The conditions are listed on attachment "c" of the staff report and should be included in the Commission's decision. Barnes clarified that this is not a new project, but a request to modify the previously approved application. The applicant is entitled to make this request under current City ordinance.

In terms of an updated Sand Management Plan, the City has approved an extension asked by the consultant in order to utilize new LIDAR data that should be available late this summer or fall. Once the consultant work is done the City will move forward on policy updates.

In response to a question from Lundy, Barnes stated that a copy of the communication from the State OPRD with the applicant was forwarded to the Commissioners.

Chair Lundy asked if there was additional correspondence. Barnes noted correspondence in front of the Commissioners at the dais.

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, on behalf of Breakers Point Homeowners Association, PO Box 246 Cannon Beach OR 97110, stated he is in support of the staff report and agrees that this is not a new application but an application for modification to a previously approved conditional use. This application is in compliance with all the conditions associated with the approval of conditional use 15-03.

Chair Lundy called for proponents of the request.

Frank Patrick, 255 Torreyview Drive, Portland OR 97110, property owner at Breakers Point, gave testimony in support of the application. Patrick stated that the original plan was to restore the natural shoreline, however, Oregon Parks and Recreation District (OPRD) did not approve the application. In response to a question from Bernt, Patrick stated that he does not know if the decision from OPRD can be appealed. He recommended the Commissioners direct that question to Francis. Patrick stated that up and down the west coast cities are being encouraged to stop using european beach grass for dune stabilization. He questions if there is a double standard in this County. In response to a question from Kerr, Patrick stated that he is not aware if a hearing was requested after the denial from OPRD was received and again deferred to Francis. Patrick noted the money, time, and resources associated with an appeal. He also noted that the dunes have grown an additional five feet; the secondary dunes have grown three additional feet. Johnson questioned if the OPRD application was not persuasive enough. Patrick stated possible reasons the state chose to deny the application, additionally noting the Army Corps of Engineers endorsed the use of native plants.

Ed Stone, 4540 NW Malhuer Ave, Portland OR 97229, gave testimony in support of the application.

Mark Twietmeyer, 447 N Larch PO Box 727, Cannon Beach OR 97110, handed out written testimony. Kerr requested to have testimony restricted to vegetation, and not about loss of views. Bernt questioned if the two were not unrelated. Kerr stated that it is her belief that it is not relevant and has also been established with previous testimony. Kerr noted that if this is seen as a modification to a previously approved application than anything not associated with the vegetation is irrelevant.

Lundy asked to restrict testimony to the modification only.

Chair Lundy called for opponents of the request.

Carol Bennett, 1419 S Jackson St Studio 115, Seattle WA 98144, property owner on 7th Street, gave testimony in opposition of the application. Bennett stated that the Commissioners previously approved the conditional use permit request based on the experimental element of the revegetation. Since the approval was based on that she is asking that the Commissioners deny the request.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, gave testimony in opposition of the application. She requested that the application not be approved until after a new sand management plan is completed and adopted by the City. Siebert-Wahrmund stated that she does support dune grading for emergency purposes only at this time.

Ed Johnson, PO Box 241, Cannon Beach OR 97110, gave testimony in opposition of the application.

Chair Lundy asked for a staff response. Barnes stated that a copy of the state documents are now in front of the Commissioners at the dais. Barnes told the Commission that OPRD conducted a hearing on Breakers Point's request for a state permit. The hearing was in Cannon Beach City Hall council chambers on March 29, 2016. Barnes stated that he attended the OPRD hearing, but did not testify.

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

Bruce Francis stated that OPRD has the final say on revegetation and will not allow Breakers Point to use native plantings. He expressed disappointment that the OPRD did not agree with the City's decision. Francis stated that he did challenge OPRD on their decision, noting all the known issues with the use of european beach grass. Francis reiterated Patrick's testimony, noting the money, time, and resources needed to further challenge the State. The applicants wish to come before the City to ask for modifications at this time.

Kerr stated that an appeal could have been filed by the applicant to OPRD. Francis stated that the applicant wished to settle matters outside of court. Kerr commented that an appeal would have been the next step as negotiation is not part of the administrative law process.

Commissioners discussed the applicants choice to not appeal the OPRD decision. Bernt stated that the use of native vegetation was a significant factor in the approval of the initial request. Johnson stated he voted to approve the original application because of the native plant factor and feels that the use of european beach grass is a step backwards. Bennett noted the continued dune growth and the timeframe for action. In response to a question, Barnes stated that denying this request does not vacate the original approved conditional use permit.

The Commissioners discussed the application at length. After discussion it appeared that three members were opposed to approval and not more than two were in favor, and that there was unlikely to be any further discussion. Chair Lundy asked for a motion.

Motion: Bennett moved to approved CU16-03, including conditions 11 and 12;

Lundy asked for opinions as to whether as chair he could properly second the motion, and opinions were that he probably could. Knowing that no further discussion was expected, and in order to allow the vote to go forward, Lundy seconded the motion.

Vote: Bennett and Lundy voted AYE; Bernt, Johnson, and Kerr voted NAY; the vote was 2/3 in favor, and the motion failed.

Barnes requested that the commission have a second vote for the record denying the request.

Motion: Bernt moved to deny CU16-03; Johnson seconded the motion.

Vote: Bernt, Johnson, and Kerr voted AYE; Bennett and Lundy voted NAY; the vote was 3/2 in favor, and the motion passed.

Lundy called a ten minute recess.

(4) Public Hearing and Consideration of SR16-02, Request by Flora Young and Robert Dick for a Front-yard Setback Reduction in Conjunction with the Construction of a Deck Extension and Stairs at 595 N Cherry Street

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflict of interest. There were none. Chair Lundy asked if any Commissioners had any personal bias to declare. Risley stated she was the listing agent when the property was purchased, however she feels she can make an unbiased decision, and there is no current or potential financial interest in the project. Chair Lundy stated he is a neighbor and knows all parties involved, however he feels he can make an unbiased decision. Chair Lundy asked if any Commissioner had any ex parte contacts. Johnson and Lundy both stated that they had run into the builder, Brandon Ogilvie, during their site visits, and discussed the application. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting that construction has already begun. During the building process circumstances arose that required modification due to topographic issues. Barnes clarified that there is nothing in the code that prohibits someone applying for a setback reduction after work has already begun.

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

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.

Brandon Ogilvie, PO Box 793, Cannon Beach OR 97110, on behalf of the applicant, summarized the application.

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 a staff response.

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

Bennett stated the application seems like a reasonable request.

Motion: Bennett moved to approve SR 16-02; Bernt seconded.

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

(5) Public Hearing and Consideration of SR16-01, Request by David Gemma for a Front-yard Setback Reduction in Conjunction with the Replacement of an Existing Deck at 150 N Larch Street

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report stating that the application exceeds the maximum lot coverage standard. Barnes noted an additional option not noted in the staff report - the applicant may eliminate a portion of the gravel area to meet lot coverage requirements.

Chair Lundy asked if there was additional correspondence. Barnes noted correspondence in front of the Commissioners at the dais.

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.

Dave Gemma, 2843 SE Evelyn Place, Gresham OR 97080, summarized the application. In response to Kerr, Gemma gave a history of the property, noting it was originally used as a short-term rental hotel with a common area east side gravel parking area. In response to a suggestion by Bernt, Gemma stated they are looking at the affordability of converting the gravel area to grasscrete. The Commissioners discussed grasscrete with the applicant.

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 a staff response. Staff had no additional comments.

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

Johnson stated that he is unable to understand what the new deck will look like based on the images provided. Gemma reviewed the drawings presented in the application. Kerr requested a more simplified "before" and "after" drawing.

The Commissioners agreed by consensus to continue the hearing to August 25, 2016 in the City Hall Council Chambers at 6:00 p.m.; Barnes stated he will meet with the applicant to discuss the application further.

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

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

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

INFORMATIONAL ITEMS

(7) Ongoing Planning Items

nothing new. progress on training - apologized for delay.

(8) Good of the Order

No discussion.

ADJOURNMENT

The meeting adjourned at 8:10 p.m.

Administrative Assistant, Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, August 25, 2016

Present: Chair Robert Lundy; Commissioners Joseph Bernt, Charles Bennett, Lisa Kerr, Janet Patrick, and Robin Risley

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 5:58 p.m.

Lundy stated that after last month's meeting, he did research on whether or not the Chair may second a motion. It appears it is allowed, however, it is frowned upon. It is also not necessary for the Chair to vote unless it is to break a tie. Lundy would like to follow these suggestions for future meetings.

ACTION ITEMS

(1) Approval of Agenda

Motion: Kerr moved to approve the agenda as presented; Bennett seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meetings of July 21, 2016 and July 28, 2016

Lundy noted a correction on the July 28, 2016 minutes. On page three, paragraph six, it should be corrected to state Jan Siebert-Wahrmund "requested that the application not be approved...".

Motion: Patrick moved to approve the minutes of July 21, 2016 as presented and July 28, 2016 as amended; Bernt seconded the motion.

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

(3) Continuation of the Public Hearing and Consideration of CP16-01: Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Chair Lundy introduced the item, stating this hearing has been continued from the July 28, 2016 Planning Commission meeting.

Barnes summarized his staff report noting the suspension of the 5-yr transient lottery was removed from the City's Strategic Plan, and asked the Planning Commission to remove it from the proposed amendments to the short-term rental ordinance. Moving the short-term rental chapter out of the zoning ordinance and into chapter 4 is still in consideration; and based on recommendations from City attorneys. Barnes reviewed the appeal process for land use items, noting that short-term rental permits coincide with business licenses and are not really considered land use items. Barnes reviewed the appeal process for non-land use items. Commissioners and Barnes discussed, at length, whether or not short-term rental permits should be considered land use.

Chair Lundy asked if there was additional correspondence. There was no additional correspondence for this item.

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 called for proponents of the request.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, representing Cannon Beach Friends of Trees, noted testimony given at the July 21, 2016 public hearing, adding the following requests: 1) under 17.70.030.i, second sentence "in making it's decision on such a tree removal request, the city shall consider comments received within 10 days of the date of the mailing of the property owner notification." Take out "property owner" before "comments"; this would clarify that any person of the community could comment on the request. This would be consistent with change noting any person that comments on removal will be a notified party of record and could appeal the decision. 2) That all tree removal permits be posted on the City's website once they are received. A written copy of Siebert-Wahrmund's testimony may be found in the meeting record file.

Chair Lundy called for opponents of the request.

Herb Florer, PO Box 546, Cannon Beach OR 97110, gave testimony regarding moving the short-term rental ordinance out of Chapter 17. He stated concerns with potential consequences of such a change, noting it may be debatable whether or not this is a land use issue. He believes the change is unnecessary and may remove the local process for short-term rental dwelling owners.

Frank Patrick, 255 NW Torryview Dr., Portland, OR 97229, gave testimony regarding the consideration to shorten the appeal period from 20 to 15 days. He questioned what the goal of this change is for the City, noting the appeal period is calendar days that includes weekends and holidays. He noted appeal periods for most litigation is 30 days. This allows time for due process.

Chair Lundy called for discussion of the proposed amendments. Barnes noted that the Commissioners may choose to close the hearing on some items and keep the hearing open on others. He also noted that the hearing may also be reopened on some items if necessary.

Chair Lundy closed the public hearing for the proposed shot-term rental amendment.

Motion: Kerr moved to recommend the City Council keep the short-term rental ordinance in Chapter 17 and not move it to Chapter 4; Patrick seconded the motion.

Kerr stated she believes moving the short-term rental ordinance from Chapter 17 may have a serious adverse effect on the due process rights of citizens on what is a very important issue. Risley and Patrick echoed Kerr's concerns.

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

Chair Lundy closed the public hearing for the proposed dark sky ordinance amendments.

Motion: Bennett moved to recommend the City Council adopt the proposed amendments to the dark sky ordinance as presented; Bernt seconded the motion.

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

Chair Lundy closed the oral portion of the public hearing and kept the public hearing open for written testimony only for the proposed slope/density amendments. Kerr noted that Commissioner Johnson may have additional comments for this item.

Chair Lundy closed the public hearing for the proposed appeal period amendment.

Motion: Bernt moved to recommend the City Council keep the appeal period time at 20 days; Patrick seconded the motion.

Risley recommended the appeal period be lengthened and not shortened. Patrick noted a large percentage of second home owners that do not live in town and may not receive decision documents in a timely manner. The Commissioners discussed the 120-day decision deadline for the City on land-use applications. In response to discussion Barnes noted that larger jurisdictions may hold multiple monthly meetings in order to meet the 120-day deadline; larger jurisdictions may also hire a hearings officer instead of waiting for the application to go before the Planning Commission. The Commissioners discussed this in detail.

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

Chair Lundy closed the public hearing for the proposed government structures/schools amendment.

Motion: Bernt moved to recommend the City Council adopt the proposed amendment regarding government structures/schools as presented; Bennett seconded the motion.

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

Chair Lundy requested additional detail on the proposed Comprehensive Plan amendment regarding the Cannon Beach Elementary School site. Barnes reviewed the change in detail, noting that some policies refer to the school as if it were still operating.

Chair Lundy closed the public hearing for the proposed Cannon Beach Elementary School site amendment.

Motion: Kerr moved to recommend the City Council adopt the proposed amendment regarding the former Cannon Beach Elementary School as presented; Bernt seconded the motion.

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

Chair Lundy closed the oral portion of the public hearing and kept the public hearing open for written testimony only for the proposed hardscape/softscape amendments. Kerr noted that Johnson may have additional consideration for this item.

Chair Lundy recommended a change to the proposed amendment regarding PODS/storage containers. Lundy requested the amendment state that storage containers are allowed onsite to store contractor's materials and equipment during construction. Chair Lundy closed the oral portion of the public hearing and kept the public hearing open for written testimony only for the proposed PODS/storage containers amendment.

Chair Lundy closed the public hearing for the proposed Planned Development amendments. The Commissioners discussed the proposed amendment. Barnes noted that the City Council asked for staff to make the changes in response to the City's land use attorney's recommendations, however, the City Council also asked the Commissioners consider the option of removing the Planned Development section completely. Kerr stated concerns voting on eliminating this section all together without the public having more input. She noted that the hearing notice did not make it clear that eliminating this section would be considered. Kerr expressed concern that the City Council does not take the Planning Commission's recommendations seriously. Barnes stated that the City Council takes the Planning Commission's recommendations into consideration on all matters and asks him to give a detailed summary of the reasons for the Planning Commission's recommendations.

In response to discussion Chair Lundy reopened the public hearing for the proposed Planned Development amendments for both oral and written testimony.

Motion: Risley moved to re-notify all property owners within Cannon Beach of the proposed Planned Development amendments.

There was no second and the motion failed.

Motion: Kerr moved to continue the public hearing to the September 22, 2016 meeting and make the proposed Planned Development amendments a separate item on the agenda; noting the consideration to delete this section from the Zoning Ordinance; Patrick seconded the motion.

Frank Patrick, 255 NW Torryview Dr., Portland, OR 97229, stated that he believes a Comprehensive Plan amendment may be needed if the City is considering the deletion of the Planned Development chapter.

Barnes stated that he communicated with several property owners about the possible deletion and has not received any written or oral testimony in support or against this proposed amendment. Commissioner Patrick noted that the Planned Development chapter may be useful when considering affordable housing options.

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

Chair Lundy recommended the public hearing be left open for the proposed tree removal ordinance amendments, requesting that Siebert-Wahrmund's recommendations be incorporated into the draft amendments for consideration at the September 22, 2016 meeting. The Commissioners all agreed to this recommendation.

(4) Continuation of the Public Hearing and Consideration of SR 16-01, Request by David Gemma for a Front-yard Setback Reduction in Conjunction with the Replacement of an Existing Deck at 150 N Larch Street

-and-

Public Hearing and Consideration of V 16-04, Request by David Gemma for a Variance to the Maximum Allowed Lot Coverage in Conjunction with the Replacement of an Existing Deck at 150 N Larch Street

Chair Lundy introduced the item, noting the setback reduction request will be reviewed against the criteria of the Municipal Code, Chapter 17.64, Setback Reduction. The variance request will be reviewed against the criteria of Municipal Code, Chapter 17.84, Variances. Chair Lundy noted that the hearing for the setback reduction request has been continued from the July 28, 2016 Planning Commission meeting.

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 conflict 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. 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 substance of the setback reduction requests remains the same as last month. Barnes noted site plan modifications that can be found in the Commissioner's packets. Regarding the variance request, Barnes stated that when the original setback reduction application was filed the lot coverage issue was not yet known. Barnes reviewed the application in detail. He noted if the Commissioners reach a decision tonight they can vote for both applications with one motion, or two separate motions.

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

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.

David Gemma, 2843 SE Evelyn Pl, Gresham OR 97080, presented his application. Gemma summarized a meeting with Barnes regarding the application, noting the uniqueness of the lot. In response to Commissioners' recommendation to install grasscrete to meet the lot coverage requirements, Gemma stated he researched several landscape companies and concluded that it would be an expensive project and not affordable. He noted the installation of grasscrete would double the cost of the proposed deck replacement project. Gemma gave a history of the property and the unique cul de sac. Gemma responded to submitted written testimony from neighbors, stating they are sensitive to their requests. Gemma is able to comply with all the neighbors' requests but one. Gemma noted that a solid railing to hide the deck from public view, which is the existing railing, contributed to the rotting of the joists and therefore he prefers to not use solid railing.

In response to a question from Lundy, Gemma stated that grasscrete or hardy grass would not be appropriate planting as the garbage company serves five homes on that street and utilize the cul de sac to do so; along with emergency vehicle access. It would be impossible to maintain plantings at that location. Gemma reiterated the difficulty for this lot to meet planning code due to the lot's uniqueness.

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 a staff response. Barnes had no additional comments.

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

Bernt noted concerns with the size of the lot coverage variance being requested. In response to additional concerns from Bernt, Gemma noted that it is not the grasscrete that would cause an issue with the garbage truck accessing the cul de sac, it is the weight of the trucks that would break up the concrete blocks. Bennett noted that additional plantings by the applicant will offset the lot coverage of the remodeled deck. Kerr noted that the application brings the lot coverage from 71% to 61%, therefore, it will at least be an improvement. Gemma stated that he is willing to mitigate any issues the neighbors may have. In response to discussion, Bernt stated that he is in support of the request.

Motion: Bennett moved to approve the variance request and the setback reduction request; Kerr seconded the motion.

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

(5) Public Hearing and Consideration of SR 16-03, Request by Jan Ferguson-Bresee for a Front-yard and East Side-yard Setback Reduction in Conjunction with the Renovation of a Nonconforming Structure at 164 W Van Buren Street

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

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. Chair Lundy asked if any Commissioner had any conflict 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. Chair Lundy stated during site visit he ran into a neighbor and discussed the application; he

does not feel the discussion has any bearing on his decision. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report noting the current structure is run down, therefore the proposed improvements bring the application above the 50% structure value threshold to allow an administrative decision. Barnes noted that if the Commission would like to request additional detailed design drawings from the applicant they may ask the applicants to provide that information and continue the hearing to the September 22, 2016 meeting. In response to a question from Bennett, Barnes stated that the proposed application does not change the current setbacks.

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

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.

Jan Ferguson-Breese, 13723 SE Portland View Pl, Happy Valley OR 97086, presented her application. Ferguson-Breese noted that the setback reduction is for the front-yard setback only, not the east side-yard as indicated in the staff report. She further noted the history of the property, stating her parents originally owned the property then sold it to absentee owners. Through negotiations she was able to buy back the property for her family. She stated that the northeast addition of the dwelling will be removed. She further stated that neighboring property will not be negatively impacted by this application. In response to Commissioners' questions regarding the single-story and two-story options presented, Ferguson-Breese stated that she was advised to ask for any potential building scenario, however, they plan on only building a single-story dwelling. Family may want to build a second story in the future.

In response to a question from Kerr, Ferguson-Breese stated that the structure will be in conformance to all other code requirements. Bernt stated concern that a second story would impact solar access to the abutting McBee Hotel. Kerr noted that the front-yard setback would not affect the McBee Hotel and the property owner has the right to build a second story. Ferguson-Breese noted that a future second story would be built to the back of the dwelling and not to the front-yard setback. Risley stated that she would like to see building plans for the dwelling prior to voting. Patrick and Kerr both stated the it may be difficult for the applicant to provide building plans given the scenario and not knowing if the front-yard setback reduction would be granted. Bennett noted the two letters from neighboring property owners in support of the application. In response to a question from Lundy regarding a future generation wanting to a build a second story, Barnes stated that if the setback reduction is granted, the applicant would need to apply for a building permit within one year. Risley stated concerns granting a possibly larger structure on this property.

Ferguson-Breese stated that they would take the two-story option out of the request and only request a one-story option since a building permit will be required within one year.

Chair Lundy called for proponents of the request.

Joe Fritsch, 174 W Van Buren, 3810 SE 142nd Court, Vancouver, WA 98683, gave testimony in support of the application, stating he was overjoyed to meet the applicants, and extremely happy that they wish to maintain family heritage in the property.

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

Chair Lundy asked for a staff response. Barnes noted that he instructed the applicants to provide multiple building scenarios.

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

Motion: Bernt moved to approve the setback reduction provided the remodel is for a one-story dwelling; Bennett seconded the motion.

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

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

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

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

INFORMATIONAL ITEMS

(7) Ongoing Planning Items

Barnes distributed a handout to the Commissioners regarding training. He stated the City will cover the cost and requested the Commissioners let staff know by September 1, 2016 if they are interested in attending. Staff will complete the registration for them. Risley stated that Clatsop County Commissioners will be attending.

(8) Good of the Order

Bennett will not be at the September 22, 2016 meeting.

ADJOURNMENT

The meeting adjourned at 8:27 p.m.

Administrative Assistant, Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, September 22, 2016

Present: Chair Robert Lundy; Commissioners Joseph Bernt, Hank Johnson, Lisa Kerr, Janet Patrick, and Robin Risley

Excused: Commissioner Charles Bennett

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: Kerr moved to amend the agenda, hearing items (5) and (6) first; Risley seconded the motion.

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

The agenda remains in the same order.

(2) Consideration of the Minutes for the Planning Commission Meetings of August 25, 2016

Bernt noted a correction on page six, “barring” should be “baring”. Kerr noted a correction on page two, paragraph ten should read, “.....effect on the due process rights of citizens on what is a very important issue.”

Motion: Bernt moved to approve the minutes of August 25, 2016 as amended; Kerr seconded the motion.

Vote: Bernt, Kerr, Patrick, and Risley voted AYE; the vote was 4/0 in favor and the motion passed. Johnson abstained as he was not present at the August 25, 2016 meeting.

(3) Continuation of the Public Hearing and Consideration of CP16-01: Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Chair Lundy introduced the item, stating this hearing has been continued from the August 25, 2016 Planning Commission meeting.

Barnes summarized his staff report.

Chair Lundy reviewed his notes and corrections to the proposed amendments.

The Commissioners discussed the proposed tree ordinance amendments at length. Johnson requested Vine Maple and Big Leaf Maple be added to the native tree list. Bernt requested to remove the sentence “Proof of violation...”. Kerr stated, in her opinion, the sentence should remain as it holds the property owner responsible.

Motion: Bernt moved to remove the sentence “Proof of violation...” from 17.70.020.M of the proposed amendment.

There was no seconded and the motion failed.

Motion: Kerr moved to add Vine Maple and Big Leaf Maple to the native trees listed in the proposed tree ordinance amendment; Risley seconded the motion.

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

Motion: Johnson moved to keep the language in 17.70.020.E.2 unchanged in the proposed tree ordinance amendment; Risley seconded the motion.

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

Consensus to leave 17.70.020.G as is, no change.

Motion: Kerr moved to recommend the City Council adopt the proposed amendments to the tree removal ordinance as amended; Johnson seconded the motion.

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

Chair Lundy continued the public hearing for hardscape/softscape, PODS, slope density items to the October 27, 2016 meeting.

(4) Continuation of the Public Hearing and Consideration of CP 16-01, Specifically Regarding the Proposed Amendment or Removal of Chapter 17.40, Planned Development (PD) Zone in the Zoning Ordinance

Chair Lundy introduced the item, stating this hearing has been continued from the August 25, 2016 Planning Commission meeting.

Barnes summarized his staff report, noting that this item is being considered independently from the other proposed amendments per the Commissioners' request from the August 25, 2016 meeting. Barnes further stated the hearing was left open to both written and oral testimony. There has been no additional written correspondence received since the August 25, 2016 meeting.

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 called for proponents.

Jan Siebert-Wahurmund, PO Box 778, Cannon Beach OR 97110, requested removal of the Planned Development (PD) Zone ordinance.

Chair Lundy called for opponents. There were none.

Chair Lundy closed the public hearing and moved to consideration.

Kerr expressed concerns with removing the ordinance as it may open up a possibility to loopholes in the future. She stated she is in favor of the proposed changes. Bernt stated hesitation with removal, noting that it may be useful to have the option of a Planned Development Zone in the future. Risley noted possible parcels that may be large enough to utilize this portion of the code. In response to concerns from Patrick that removing this portion of the code may limit the City when it comes to affordable housing development, Barnes stated that no current

affordable housing initiatives currently being discussed would utilize this portion of the code. In response to a question from Kerr regarding removal, Barnes recommended the Commission move forward with the proposed changes to address some of the problems evident with interpretation in the past. Barnes noted the Commission may choose to recommend the City Council remove it as a first choice, or adopt the proposed changes as a second choice. Barnes noted other tools within the ordinance that may allow "cluster development" separate from the PD ordinance.

Chair Lundy noted several amendments he would like the Commission to consider for making a motion.

Chair Lundy continued to the October 27, 2016 meeting.

(5) Public Hearing and Consideration of CU 16-04, Hospitality First, LLC, Conditional Use Request to Allow Development of a Two-Story 18 Unit Motel, 132 E Surfcrest

Chair Lundy introduced the item, noting the request will be reviewed against the criteria of the Municipal Code, Section 17.80.110, Conditional Uses, Overall use standards; and Section 17.82.060, Pre-existing Uses.

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report, noting this application is unique considering the pre-existing use. Barnes gave a background on the pre-existing use ordinance and discussed the application in detail. Barnes noted a correction on pages 5 and 6 of the staff report, noting the proposed design is for one building, not multiple buildings.

Barnes noted additional correspondence located at the dais.

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.

Patrick Nofield, PO Box 843, Cannon Beach OR 97110, representing Escape Lodging Co. (Hospitality First LLC), gave a presentation, giving a detailed history of the property and previously approved application for the Inn at Cannon Beach with an emphasis on a residential feel. Nofield distributed the original site plan for phase one of the previously approved application. Nofield noted that they would like to get away from the condominium feel and instead develop and extension of the Inn at Cannon Beach with and additional 18 units. He further noted that 65% of the property will be landscaping or walkways. In response to a question from Kerr, Nofield stated that him and his partners purchased the property after it had been rezoned with the hope they could continue to use the property as nonconforming. In response to questions from Lundy, Barnes reviewed the previous nonconforming use of the property, confirming that the property was "grandfathered" in. In response to Kerr, Nofield noted that the previous application was for eight townhouse units; this application is for 18 units. Each unit will be a one bedroom suite with separate living area. Nofield answered several design applicable questions asked by Johnson.

Chair Lundy called for testimony by proponents.

Herb Florer, PO Box 546, Cannon Beach OR 97110, gave testimony in favor of the application. Florer noted he and his wife reside across the street of the property, as well as own/operate a business across the street. He further noted that this project will be a welcome addition and fit into the current uses in the area.

Chair Lundy called for testimony by opponents.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, gave testimony, specifically noting concerns with increased water usage.

Chair Lundy called for staff response. Staff had no additional comments.

Chair Lundy closed the public hearing and moved to consideration.

Kerr noted that the criteria regarding if there is a need or demand is subjective. Kerr noted a potential negative traffic and water impact with this development. She also noted the property was purchased after the zone change. She further noted concerns with the development of additional hotels in Tolovana. In response to a question from chair Lundy, Barnes stated there is no definition in the Municipal Code for "demand" and it is a subjective criteria. Johnson stated a large impact on traffic since the development of the store Fresh Foods in Tolovana, and therefore agrees that further development may have a further negative traffic impact. Bernt stated that he does not see a development of this size making that much of a difference on traffic. Bernt further stated that during the summer months he has seen numerous "no vacancy" signs on local lodging establishments, so perhaps there is a need; in regards to excessive water use, Bernt stated that day-trippers and restaurants also impact water use.

The Commissioners discussed tourism and overnight lodgers at length, specifically if there is a "demand" for additional units.

Patrick stated that at some point there will be development on that property, and any development would impact water usage.

Motion: Bernt moved to approve CU 16-04 as presented; Patrick seconded the motion.

Risley suggested that possibly a condition should be considered to mitigate traffic impact and/or water usage. Chair Lundy stated the Warren Way intersection will be reconfigured and improved. Barnes stated that one strategic planning goal was to establish a transportation systems plan. That plan will look at overall traffic impact. The Public Works Department is currently performing a water study to look at current usage and projected usage. These may help inform development decisions.

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

(6) Public Hearing and Consideration of AA 16-01, Cameron La Follette, Oregon Coast Alliance, Appeal of Administrative Decision Approving DP 16-03

Chair Lundy introduced the item, noting the request will be reviewed against the criteria of the Municipal Code, 17.46.060.A and 17.88.140-.150.

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 conflict of interest. Risley stated she serves on the Oregon Parks and Recreation Commission. Patrick stated she resides in Breakers Point. Both Risley and Patrick stepped down, and did not participate. 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. 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 Commission should determine whether Oregon Coast Alliance's application meets the requirements of 17.88.150.B: "A statement of the interest of the person seeking review." Barnes added the application is for remedial dune grading behind the vegetation line.

Chair Lundy called for a short recess at 7:51pm.

Chair Lundy reconvened the public hearing at 7:55pm.

Chair Lundy stated the appellant should establish an interest in the matter, however that is not currently noted on the City's appeal form. Since it is not currently noted on the form, the appellant should have a chance to state her interest.

Barnes noted additional correspondence located at the dais.

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 appellant wished to make a presentation. The appellant was not present.

Chair Lundy called for testimony by proponents.

Jan Siebert-Wahurmund, PO Box 778, Cannon Beach OR 97110, gave testimony in support of the appeal, noting additional information should be required.

Chair Lundy called for testimony by opponents.

Bruce Francis, PO Box 246, Cannon Beach OR 97110, on behalf of Breakers Point Homeowners Association, gave testimony against the appeal, noting agreement with the approval, the findings of fact, and the six conditions of approval. Francis asked the Commissioners to uphold the staff decision. In response to a question from Johnson, Francis reviewed the remedial dune grading plan to be taken place on BPHOA property. In response to an additional question from Johnson, Francis stated that the grading will be completely done by hand, no heavy machinery will be used.

Frank Patrick, 255 Torreyview Drive, Portland OR gave testimony against the appeal noting the remedial dune grading is to take place in front of two units only and a small amount of sand would be graded. He stated the amount of sand is approximately the size of a child's sand box and located strictly on Breakers Point property. He further stated concerns with whether or not ORCA has legal interest required to file an appeal of the original decision. Patrick noted the area to be graded does not involve the estuary in any way and the movement of sand will be done by wheelbarrow, not heavy machinery.

Chair Lundy asked for any further comments.

Jan Siebert-Wahurmund asked staff who wrote the Findings of Fact. Barnes stated that he wrote the Findings of Fact.

Chair Lundy asked for staff response. Barnes stated he had no further comments.

Chair closed the public hearing and moved to consideration.

Kerr noted that the application appears to be asking that future applications include additional requirements in the future; that the appeal is not to overturn the approval of DP 16-03. Kerr led a discussion regarding the implementations of additional requirements and information on dune grading applications. Barnes stated that the application was for the appeal of the denial and that is what is being voted on. Kerr expressed the need to "tighten up" the City ordinance. Kerr led a discussion regarding the current dune grading ordinance. Lundy remarked it

would helpful if the appellant was present to ask for clarification. In response to a question from Lundy, Barnes stated that an applicant may amend their appeal application after submission. He further stated the appellant did not choose to withdraw their appeal. Kerr noted that some people may use an appeal as a catalyst for change and to bring it to the attention of the decision makers. In response to a question from Lundy regarding procedure, Barnes stated the Commission may choose to deny, modify, or approve the appeal of the administrative decision. Barnes stated the Commission may choose to give staff direction regarding amendments to forms or ordinance language. Kerr recommended a motion to deny the appeal and ask staff to consider ORCA's recommendations. In response to a question from Lundy, Barnes stated the majority of the language considered for this permit is located in the Ocean Management Overlay Zone section of the Municipal Code. Barnes stated that as early as next spring the City will begin considering broader policy changes for dune grading and sand management. Kerr stated that ORCA's recommended amendments should be considered.

Kerr stated DP 16-03 appears to be approved based on current criteria, however, changes to the language and requirements should be considered.

Motion: Bernt moved to deny AA 16-01 and uphold the administrative decision to approve DP 16-03; Kerr seconded the motion.

Vote: Bernt, Johnson, and Kerr voted AYE; the vote was 3/0 in favor and the motion passed.

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

Motion: Risley moved to authorize the chair to sign the appropriate orders; Patrick seconded the motion.

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

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

Barnes thanked the Commissioners for attending recent training, noting there will be additional trainings in the future. Commissioners discussed the training.

(9) Good of the Order

Johnson noted concerns with rearranging agenda items. Risley noted that many people attend the meeting based on the approximate times presented and may miss their opportunity to testify if the agenda is amended. In response to Commissioner discussion Barnes stated staff will email a draft agenda to the Commissioners for review prior to publishing.

Bernt raised questions regarding tree removal permits being denied for the Christian Conference Center. Barnes stated the building permit has yet to be issued for the project. Staff can not allow the trees to be removed until the building permit is issued.

ADJOURNMENT

The meeting adjourned at 8:54 p.m.

Administrative Assistant, Alisha Gregory

**Minutes of the
CANNON BEACH PLANNING COMMISSION**
Thursday, October 27, 2016

Present: Chair Robert Lundy; Commissioners Charles Bennett, Joseph Bernt, Hank Johnson, Lisa Kerr, Janet Patrick, and Robin Risley

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: Johnson moved to approve the agenda as presented; Risley seconded the motion.

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

(2) Consideration of the Minutes for the Planning Commission Meetings of September 22, 2016

Motion: Risley moved to approve the minutes of September 22, 2016 as presented; Johnson seconded the motion.

Vote: Bernt, Johnson, Patrick, and Risley voted AYE; the vote was 3/0 in favor and the motion passed. Bennett abstained as he was not present at the September 22, 2016 meeting.

(3) Public Hearing and Consideration of V 16-05, Dan Jesse, Variance Request for 1856 Haystack Lane; Public Hearing and Consideration of SR 16-05, Dan Jesse, Variance Request for 1856 Haystack Lane

Chair Lundy introduced the item, noting the variance request will be reviewed against the criteria of the Municipal Code, Section 17.84.030, Variances, Criteria for granting; the setback reduction request will be reviewed against the criteria of Municipal Code, Chapter 17.64, Setback Reduction.

6:03 pm, Commissioner Kerr arrived.

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 conflict of interest. There were none. Chair Lundy asked if any Commissioners had any personal bias to declare. Risley stated she sold the property to the owner and therefore is recusing herself. Risley stepped down from the dais and joined the audience. 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, giving a history on the property and previous permits. He stated the setback reduction must be viewed as a variance and reviewed against that criteria. He further stated that although the public hearing notice stated the applicant was seeking a setback reduction, the City attorney confirmed the advertisement was broad enough to cover a variance decision.

Chair Lundy asked if there was additional correspondence. Barnes noted that no correspondence was received for this item.

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.

Dan Jesse, 1389 Sea Ridge Lane, Gearhart OR 97138, first thanked the Commissioners for the work they do for their community. Jesse then gave a presentation, reviewing the history of the property. He noted previous construction on the home that made the home unlivable. Jesse read an email into the record from owner Claudia Toutain-Dorbec. A copy of the letter can be found in the meeting record copy. In response to a question from Kerr, Jesse stated a portion of the house and the deck are located in the setback. Jesse stated that a deck located in the north-side setback will be removed, reducing the total amount of structure located in the property setbacks. In response to a question from Johnson, Jesse stated all the deck on the south and west have been removed. The north-end deck is still currently in place. Lundy stated he would have preferred to have received Toutain-Dorbec's email prior to the hearing.

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 a staff response. Barnes had no additional comments.

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

In response to a question from Bernt, Barnes reviewed the 50% rule for nonconforming structures and the rationale behind the rule. Bernt expressed concern allowing a variance to a nonconforming structure and allowing the nonconformity to continue. Kerr noted that the application is not increasing the nonconformity, but reducing it slightly. Bernt and Kerr discussed the nonconformity at length. In response to discussion, Jesse noted the application materials, reviewing the new proposed deck, and noting a 2% reduction in total lot coverage. In response to Bernt's concerns, Kerr asked if any criteria for granting was not met with this application. Kerr stated she believes all criteria has been met. Bennett stated that, in his opinion, the variance should be granted, as criteria are met and the home is not livable unless the construction can continue. In response to discussion, Jesse noted that the roof gable was removed, lowering the roof line.

Motion: Bennett moved to approve the applications as presented; Patrick seconded the motion.

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

(4) Public Hearing and Consideration of P 16-01, Dale Barrett, Partition Request for Two Lots Located on E Surfcrest Avenue

Chair Lundy introduced the item, noting the request will be reviewed against the criteria of Municipal Code, Chapter 16.04, Subdivisions.

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report, giving a background on how partition applications are handled. He noted that this application is including three lots, not two as stated on the agenda. Barnes noted that Public Works Director, Dan Grassick, confirmed utilities are already in place for these lots. Barnes recommended 5 conditions to be adopted with an approval.

Chair Lundy asked if there was additional correspondence. Barnes noted that no correspondence was received for this item.

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.

Dale Barrett, OTAK, 4253-A Highway 101 N, Seaside OR 97138, represented the Sroufes, gave a presentation. He stated the Sroufes are not developers. Their primary goal at this time is to create two lots, in which one lot will be the site of their home. Barrett gave a summary of the previously approved subdivision at this location and the expiration of approval due to economic decline.

Chair Lundy called for proponents of the request.

David Vonada, PO Box 648, Tolovana Park OR 97145, stated his property has a common property line, however, his lot is located in the County. Vonada stated his support for the two lot division.

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

Chair Lundy asked for a staff response. Barnes noted pages 2 and 3 located at the dais.

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

Risley stated she feels this is a well thought out plan and respectful of the trees on the property.

Motion: Risley moved to approve the partition application with the 5 conditions stated in the staff report; Bernt seconded the motion.

In regards to a question from Bernt regarding south-bound traffic turning left on HWY 101 at this location, Barnes stated that Council has directed staff to complete a Transportation Systems Plan (TSP), that may address this issue, along with other traffic issues. Barnes noted the plan will come before the Commissioners once complete. Barrett stated the original Seaview Estates subdivision was required to receive highway department review.

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

(5) Public Hearing and Consideration of P 16-02, Cannon Beach Holdings LLC, Partition Request for 1371 S Hemlock, Location of Pelican Pub

Chair Lundy introduced the item, noting the request will be reviewed against the criteria of Municipal Code, Chapter 16.04, Subdivisions.

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 conflict 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. There were none. Chair Lundy asked if any Commissioner had made a site visit. Site visits were declared.

Barnes summarized his staff report. Barnes noted public concern regarding parking. He stated the application for Pelican Pub met all parking requirements. In regards to a partition, the application shows that both lots will meet parking requirements. Staff is very aware of the parking issues at this location, however, no solutions are currently on the table for consideration. Barnes stated the Planning Commission will be reviewing the Parking Management Plan at their next meeting.

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

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.

Mark Dunn PO Box 189 Pacific City OR 97135, representing the applicant, summarized the application. In response to a question from Kerr, Dunn stated Cannon Beach Holdings LLC is not in the hotel businesses. The investors would like the opportunity to do something with that property in the future. In response to a question from Patrick, Dunn confirmed an easement will be in place to allow both businesses equal driveway access. In response to Commissioner's concerns regarding parking, Dunn stated that all requirements have been met for the partition.

Chair Lundy called for proponents of the request.

Alaina Giguere, PO Box 474, Cannon Beach OR 97110, gave testimony, not as a proponent or opponent, but as a neutral party. She stated that her home is located on Dawes. Since the construction and opening of Pelican Pub, she has seen a large influx of vehicles on Dawes and patrons parking on Dawes, creating traffic hazards; and hazardous conditions for owners and pedestrians on Dawes. Giguere stated she supports the partition, but feels something needs to be done to eliminate the parking issues. She would like to see no parking allowed on the north side of Dawes. Giguere stated concerns that if the hotel is sold in the future that would eliminate available parking for Pub patrons, therefore having a larger impact on the existing parking concerns.

Chair Lundy called for opponents of the request.

Jan Siebert-Wahrmund, PO Box 778, Cannon Beach OR 97110, gave testimony in opposition. She stated that it was her understanding the hotel would be utilized for employee housing. Barnes noted that it was used during construction to house workers. He does not recall the applicant saying the hotel would be used for long term employee housing.

Chair Lundy asked for a staff response. Barnes had no additional comments.

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

Motion: Bennett moved to approve the application;

There was no second and the motion failed for lack of a second.

Kerr noted it may be helpful to make a decision on the partition after reviewing the Parking Management Plan. Barnes stated consideration could be continued until the Commissioners review the Parking Management Plan, however, he noted the Commissioner's decision on the Parking Management Plan will be a recommendation to Council and not a final decision. Kerr stated concerns with making a decision at this point when an approval may negatively impact parking.

Chair Lundy reopened the public hearing in order to ask additional questions of Dunn.

In response to a question from Lundy, Dunn stated the hotel is currently being used as such. Kerr questioned if patrons of Pelican Pub currently use parking spaces in front of the hotel. Dunn stated that Pelican Pub is pro community and is equally concerned with parking issues. He noted that he has personally spoken with Barnes and the City Manager about solutions. He stated Pelican Pub is working on an incentive program to encourage employees to find alternative ways to work and not drive. Dunn reiterated that currently, at this meeting, the partition request is all that is in front of the Commissioners.

In response to comments from Marty Giguere, in the audience, Chair Lundy asked him to come forward to the podium. M. Giguere stated that the construction of Pelican Pub took away 10 parking spaces on that lot.

Kerr stated she would feel more comfortable making a decision after a traffic study has been completed. Bernt stated the parking being a safety issue and should be addressed before making a decision on the partition.

Motion: Bernt moved to continue the public hearing to Tuesday, November 22, 2016; Patrick seconded the motion.

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

(6) Continuation of the Public Hearing and Consideration of CP 16-01: Housekeeping Amendments, Zoning Ordinance and Comprehensive Plan

Chair Lundy introduced the item, stating this hearing has been continued from the September 22, 2016 Planning Commission meeting.

Barnes summarized his staff report.

Barnes stated no additional correspondence has been received for the amendments to be considered tonight.

Barnes reviewed the slope/density amendments.

Motion: Kerr moved to recommend the City Council adopt the proposed amendments to the slope/density language as presented; Johnson seconded the motion.

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

Barnes reviewed hardscape/softscape recommended amendments.

Johnson stated it is his opinion that artificial turf should not be allowed; it should not be counted as hardscape or softscape. Risley suggested “normally” be stricken from 17.44.120.K.1.

Motion: Risley moved to strike “normally” from 17.44.120.K.1; Patrick seconded the motion.

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

Motion: Kerr moved to recommend the City Council adopt the proposed amendments to the hardscape/softscape language as updated; Patrick seconded the motion.

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

Barnes reviewed PODS/Storage Containers recommend amendments. The Commissioners discussed the proposed language. Bernt stated he felt the language was too broad and that people could comply with this section and still have something “butt ugly” outside of their home.

Motion: Kerr moved to recommend the City Council adopt the proposed amendments to the PODS/Storage Containers language as presented; Bennett seconded the motion.

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

Barnes reviewed Planned Development recommended amendments, stating the Commissioners may choose to update the existing language or remove the Planned Development language all together. Risley asked for clarification of 17.40.020.B.1. Ownership. Barnes reviewed the language in more detail. In response to discussion, Kerr suggested removing “or control” and the last sentence of 17.40.020.B.1.

Motion: Risley moved to strike “or control” and the last sentence of 17.40.020.B.1; Patrick seconded the motion.

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

Patrick stated that taking out the Planned Development language may impact construction of affordable housing. Kerr stated that removing the language may also leave opportunity for language to be adopted down the road that may cause similar issues as the existing language.

Motion: Kerr moved to recommend the City Council adopt the proposed amendments to the Planned Development language as updated;; Johnson seconded the motion.

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

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

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

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

INFORMATIONAL ITEMS

(8) Ongoing Planning Items

Barnes stated staff agreed with the Planning Commissions recommendation to not adopt language changes to the short-term rental ordinance at this point. Staff is requesting City Council not adopt any changes at this point. Amendments to the short-term rental code will come before the Commissioners next year.

Barnes noted he will be attending a joint Oregon/Washington American Planning Association Conference to give a presentation on short-term rentals.

(9) November Meeting Date

Commissioners agreed on the next meeting date: Tuesday, November 22, 2016.

(10) Good of the Order

There was no discussion for this item.

ADJOURNMENT

The meeting adjourned at 8:29 p.m.

Administrative Assistant, Alisha Gregory