

Correspondence  
Received  
after  
Council Packet  
assembled

**From:** [Jamie Kunz](#)  
**To:** [City Hall Group](#)  
**Subject:** Proposed unsafe easement on hillside above Haystack Rock.  
**Date:** Thursday, February 24, 2022 11:23:15 AM

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Dear City Council members, our community and visitors at large.

I have never written a letter like this before or been involved with any civic activity or action. I am not one to stir the pot as they say as I usually see there are 2 sides to every story.

Now this, this is a whole different ball game. This business of a private driveway right there on the S-Curves is absolutely absurd as you so eloquently pointed out with your letter.

I live on South Hemlock and drive that particular spot several times a day as do my neighbors. There are AIREADY problems with cars stacking up, people dashing across the street and by cyclists precariously making their way, unable to see what's ahead.

This is an area where cars should be moving along carefully but continuously as to keep the traffic flowing safely. Of course there are many tourists who see the view and some stop right in the road! There are many pedestrians with dogs and little children milling around as Nenana Ave. is a public thoroughfare for the good of public interest.

A private drive with a 10 foot high retaining wall would be truly a scourge on our beautiful village. Please do not let this thing happen! Cannon Beach is so precious to us that have moved here from afar to escape the large private driveways and unsightly retaining walls.

Respectfully,

Jamie Kunz

Sent from my iPhone

**From:** [Kent Suter](#)  
**To:** [City Hall Group](#)  
**Subject:** Robert's property appeal  
**Date:** Wednesday, February 23, 2022 9:43:37 PM

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This letter is for the March 1st, '22 Cannon Beach City Council meeting concerning the Robert's continued applications on their Nenana Ave property that seeks a non-compliant easement that defies ordinance, law, and logic. Any one of the following is grounds for rejection:

- a) destabilizing effects on the S curves
- b) dangerous traffic issues at a new intersection
- c) out of compliance with countless land use laws and city codes
- d) Oregon law prohibits private drives on public right-of-ways.
- e) that the Robert's purchased land without due diligence and continue their effort at vast cost of CB citizens speaks volumes. (As do the past words from the applicant himself, "Otherwise I'll turn the property into a homeless camp!")
- f) the bluff is called 'Inspiration Point'. Not '10+ high off-ramp-wall Point'.  
No one wants to see such an eyesore in front of our monolith...

Reject the Robert's application and demand one complies and fits the property.

Thank you, Kent Suter

Sent from my iPhone

**From:** [City of Cannon Beach Oregon](#)  
**To:** [Cannon Beach](#)  
**Subject:** Form submission from: Contact Us  
**Date:** Thursday, February 24, 2022 2:50:43 PM

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Submitted on Thursday, February 24, 2022 - 2:50pm

Submitted by anonymous user: 206.126.27.68

Submitted values are:

First Name David

Last Name Corbett

Email david.corbett01@gmail.com

Question/Comment

I am writing this missive in regards to the proposed granting of an easement off Nenana Avenue. I do not agree that an easement should be granted for the purpose of developing this piece of property. The drainage and sliding of this part of Hemlock Street has been a constant problem for years. Inasmuch, the undeveloped road dedication has never been built because some property is just not conducive for development. This scenic area is best left alone. The public right of way (undeveloped Nenana Avenue), is not conducive for granting any kind of private easement for the benefit of one land owner. The public is not served in any way by even considering such a thing. In this case; safe access, geotechnical obstacles, destruction of habitat, etc. are all considerations for denial. Our family have owned a cabin in the area for many years. The 'S' curves in Cannon Beach is not a place for further infrastructure development. I am asking the City to deny the request of granting this easement. It does nothing beneficial for the public or the land..

David Corbett

The results of this submission may be viewed at:

<https://www.ci.cannon-beach.or.us/node/7/submission/4647>

**From:** [christopher thomas](#)  
**To:** [City Hall Group](#)  
**Subject:** Public hearing re: Nenana Ave  
**Date:** Thursday, February 24, 2022 2:37:21 PM

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To the City Council of Cannon Beach:

As property owners in Cannon Beach, we are opposed to the proposal that would give away a public right-of-way on the hillside above Haystack Rock. Our house is along the S-curves of S Hemlock and we strongly feel that adding a driveway at the proposed location would substantially increase the danger of an already dangerous section of road. In addition, we do not support what could set a precedent for giving away a private easement on public right of way land.

Chris and Emily Thomas  
2175 S Hemlock  
Cannon Beach, OR

24 Feb 2002

Comment for Cannon Beach City Council Meeting March 1, 2022, regarding stopping the request for a private easement that would create unsafe conditions on/near the Hemlock S-Curve.

Comments provided by Steve and Jill Martin (2540 S. Hemlock, Cannon Beach, OR 97110)

We believe the request for this easement has already been previously denied, which it should have been. These comments are provided as requested to show public opinion regarding the easement.

As anyone who lives in Cannon Beach knows, the S-Curve is already problematic, especially during periods of congestion caused by the many visitors - and of course when the elk are present.

To add a private drive in the location as requested by the easement creates an extremely unsafe safety hazard for vehicles and for pedestrians.

The City Council should continue to reject this request in the public interest of the residents of Cannon Beach.

Question: If such access is necessary for this property owner, maybe consideration should be given to extending Pacific Dr? This would mediate the safety concerns of access from Hemlock but would definitely disrupt the natural beauty of the landscape above Haystack Rock.

Steve and Jill Martin

**From:** [City of Cannon Beach Oregon](#)  
**To:** [Cannon Beach](#)  
**Subject:** Form submission from: Contact Us  
**Date:** Friday, February 25, 2022 3:07:45 PM

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Submitted on Friday, February 25, 2022 - 3:07pm

Submitted by anonymous user: 71.8.163.161

Submitted values are:

First Name Doria

Last Name Bouneff

Email [nickdoria@netzero.com](mailto:nickdoria@netzero.com)

Question/Comment

Putting a driveway over a cliff and in a known slide area is the most ludicrous thing !! Seriously. We have lived in Cannon for 18 years and have seen numerous issues with the proposed area of Nenana Ave. To the point of the road being closed several times. Just take a survey of the pavement and you will clearly see that is uneven and cracked. The project may even compromise the house across from it and it's very foundation. And then, what about the cars pulling in and out of it on a blind corner !!! This road, a driveway really, that will only service one property is silly and futile. An aerial view confirms this plainly. Geologically ridiculous. Plus, The City will be on the hook to maintain and repair it and it will be time consuming. Unfairly so to other property owners who will be paying for it with our very high property taxes and those needing routine maintenance. Just getting gravel is a task. I strongly recommend that you do not turn a public right of way and thoroughfare into personal use. The work that has already been initiated is already falling apart, I walk by it often and that is quite clear !

The results of this submission may be viewed at:

<https://www.ci.cannon-beach.or.us/node/7/submission/4649>

**From:** [Jeffrey Adams](#)  
**To:** [Steve & Jane Ditewig](#)  
**Cc:** [Jennifer Barrett](#)  
**Subject:** RE: March 1 hearing Robert's driveway request  
**Date:** Friday, February 25, 2022 12:54:59 PM  
**Attachments:** [image001.png](#)

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Steve and Jane,

Thanks, we'll forward your thoughts to the City Council and place them in the Public Record.

Best,  
Jeff



**Jeff Adams**

*Community Development Director*

**City of Cannon Beach**

**p:** 503.436.8040 | **tty:** 503.436.8097 | **f:** 503.436.2050

**a:** 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

**w:** [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | **e:** [adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us)

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**From:** Steve & Jane Ditewig <[ditewig@gmail.com](mailto:ditewig@gmail.com)>  
**Sent:** Friday, February 25, 2022 12:38 PM  
**To:** Jeffrey Adams <[adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us)>  
**Subject:** March 1 hearing Robert's driveway request

Jeff, please add this comment to the record for the March 1 public hearing on Stan and Becky Robert's request for a Driveway Access Easement Agreement over the W. Nenana Avenue right-of-way. I tried sending this message to the city hall email but it bounced back to me, so am sending it to you. Thank you for your assistance.

We strongly oppose granting an unlawful easement for construction of a dangerous driveway on Nenana Avenue.

1. The S curves are dangerous as it is. A driveway there will severely increase the danger.
2. A driveway will create increased risk of landslides on Hemlock Street.
3. It is against the law for public right-of-way to be put to private use.
4. Nenana Avenue can only be used as a public thoroughfare. The City is a trustee of the right-of-way and must only put the property to the best public use. The proposal benefits only one property and is grossly detrimental in all aspects. This is the opposite of the public interest.



5. The City Council has no obligation to grant access over Nenana Avenue and applicants have no legal authority that states otherwise.

Thank you,  
Stephen and Jane Ditewig

**From:** [Joy McNeal](#)  
**To:** [City Hall Group](#)  
**Subject:** comment for private driveway  
**Date:** Saturday, February 26, 2022 10:46:26 AM

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I would like to object to the proposed private driveway, for the following reasons.

- \* our land at the beach cabin is unstable and this proposed driveway could further cause instability.

- \* Only one person would benefit from this high cost addition.

- \* This adds to the rumor that anyone with money can bribe city hall to get what they want.

- \* The number of accidents on Hemlock will increase.

I do hope that my taxes won't increase to accommodate the private use of one individual.

Thank you for considering these issues.

Joy McNeal  
cabin at 1863 Pacific Av

**From:** [Gerald Ritter](#)  
**To:** [City Hall Group](#)  
**Subject:** Granting an Easement for a Drive-Way on Nenana Avenue  
**Date:** Saturday, February 26, 2022 4:51:21 PM

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Dear Cannon Beach City Council Members,

We have been home owners in Cannon Beach since 1992. Our home is located on Pacific Avenue near the property under discussion by the proposal to grant an easement for the use of Nenana Avenue for a private driveway. We are writing to indicate our recommendation that this proposed driveway be rejected by the council. Our strongest concern is that the driveway uses a public right of way and the intersection with Hemlock would be very dangerous at the S-curves. Cars going north that may have to stop for on-coming traffic prior to turning onto this driveway at the intersection could be hit from behind because there is insufficient time for following traffic to stop after rounding the curve. Therefore, collisions are very likely unless an expensive left-turn lane is constructed. This turn lane is probably not even feasible at this intersection due to limited area on the hillside.

We have also been donors for the purchase of the Inspiration Point property which is adjacent to the proposed driveway. This property has been set aside to preserve the beauty of this area and the view of Haystack Rock. The driveway as shown in the sketch would negatively impact the view and landscape around Inspiration Point. Public access to this area would be seriously impacted by the driveway.

We are also concerned about the legal issues that have been raised regarding this proposal and the impact of the driveway on the stability of the hillside. Specifically, it is our understanding that it is unlawful to convert a public right-of-way for private use. If Nenana Avenue is ever developed, which we do not support, it should be for public use. We also understand that the city must have access to this area for maintenance of the City's underground dewatering system to stabilize the S-curves hillside.

Thank you for your consideration of our concerns and recommendation,

Gerald and Maureen Ritter

**From:** [David Chown](#)  
**To:** [City Hall Group](#)  
**Subject:** Roberts access application  
**Date:** Sunday, February 27, 2022 6:25:37 PM

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I am writing to urge the City to reject the request by Mr. and Mrs. Roberts to develop a private driveway on undeveloped Nenana Avenue.

My family has owned a house on Tok Lane, a few blocks south of the proposed development, for fifty years. I am familiar with the property in question. It is a very steep slope on top of an active landslide. The city has spent a great deal of money attempting to stabilize the hillside by installing a drainage system to remove excess groundwater. I don't see how it is possible to ensure that any development would not exacerbate an extremely sensitive area. If the slide is worsened it could damage Hemlock Street and surrounding properties. The city has an obligation to ensure that does not happen, and for that reason alone the development should be rejected.

The proposed house also seems to violate our oceanfront setback regulations. As the owners of an oceanfront home we are very familiar with these regulations. If one property is granted an exception it would call into question the entire setback rule, which has successfully guarded our property rights for years. One property cannot be allowed an exception which does not apply to others.

Please enforce the rules equally for all proposed development, which will require that this project be denied.

Thank you,  
David Chown

**Lisa Kerr  
PO Box 94  
Cannon Beach, OR. 97110**

**February 28, 2021**

**Dear Members of the Cannon Beach City Council:**

**I am writing my opinion as a community member, resident of  
Cannon Beach.**

**I think consideration of the granting of a private easement  
over a public right-of-way to allow access to the Robert's  
property is premature. At present, the Roberts have  
appealed their case against the City to the Oregon Supreme  
Court to build a house within the Ocean Front Setback,  
despite the objections and wishes of the neighborhood and  
many citizens of Cannon Beach. It makes much more sense  
to wait until the resolution of the current litigation before**

**making concessions for a proposal that may or may not take place.**

**If the City determines that, by law, it is necessary to grant access over a public right of way, there is no reason that that access should be private and gated. If there is concern about people driving down the road and ending up with no turn-around on the Robert's property, that can be remedied by proper signage such as "NO TURNAROUND" and "DEAD END" signs. This type of signage is common throughout the City and County and serves its purpose. The proposed driveway to the Robert's property is a public right-of-way and if improved, should remain public. The proposed "private" easement is not sufficient to ensure the public's future use of this roadway should the park be developed to the south of the Robert's property. There is an issue of trust that must be considered as demonstrated by the Robert's actions up to this point.**

Thank You for Your Consideration,

Cheers,

Lisa Kerr

**Lisa Kerr  
PO Box 94  
Cannon Beach, OR. 97110**

**February 28, 2021**

**Dear Members of the Cannon Beach City Council:**

**REGARDING THE APPOINTMENTS TO THE SHORT-TERM  
RENTAL COMMITTEE.**

The original intent was to have a representation across various aspects of the community. Lisa Frazier and I were representative of homeowners, full time citizens and non-business owners. Lisa Frazier's replacement should reflect someone with a similar profile, not someone who is a business owner, a real estate salesperson, or connected with a short-term rental agency. This would make the composition of this committee skewed against the home-owner citizens of Cannon Beach.

Thank You for Your Consideration,

Lisa Kerr



**From:** [Katie Hillenhagen](#)  
**To:** [Jennifer Barrett](#)  
**Subject:** FW: Input regarding Roberts Property discussion  
**Date:** Monday, February 28, 2022 2:10:57 PM  
**Attachments:** [image.png](#)  
[image.png](#)  
[image001.png](#)

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Jen,

This one is for Council tomorrow.

Thanks,  
Katie



**Katie Hillenhagen**

Administrative Assistant - Planning Department

**City of Cannon Beach**

**p:** 503.436.8054 | **tty:** 503.436.8097 | **f:** 503.436.2050  
**a:** 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110  
**w:** [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | **e:** [hillenhagen@ci.cannon-beach.or.us](mailto:hillenhagen@ci.cannon-beach.or.us)

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**From:** Caleb Whitmore <[caleb.whitmore@gmail.com](mailto:caleb.whitmore@gmail.com)>  
**Sent:** Monday, February 28, 2022 1:39 PM  
**To:** Planning Group <[cbplanning@ci.cannon-beach.or.us](mailto:cbplanning@ci.cannon-beach.or.us)>  
**Cc:** Jeffrey Adams <[adams@ci.cannon-beach.or.us](mailto:adams@ci.cannon-beach.or.us)>  
**Subject:** Input regarding Roberts Property discussion

Dear City Council and Planning Department,

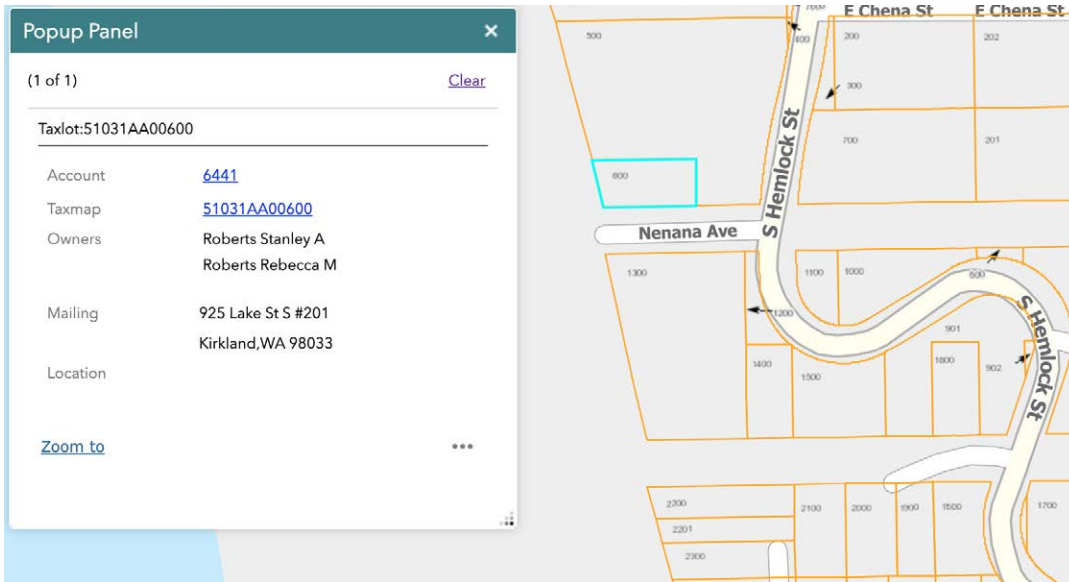
In considering the Roberts' property proposals for the current easement (and in the past consideration of other proposals) it's clear to me there is a lot of controversy over this.

Has a win-win approach been considered? It seems the mindset has largely been *"how can we stop them from doing anything?"* Perhaps this could be changed to *"how can we help them, provided it is reasonable, and provides a win-win for the community at large?"*.

It seems clear from certain discourse on the topic that some in the community want nothing to be allowed here unless it has zero impact on anyone or anything. That is, by definition, not reasonable. Any presence we have has an impact. All of us here that already have a home, all of our existing streets, infrastructure, etc... has had and continues to have an impact. Why should one lot owner

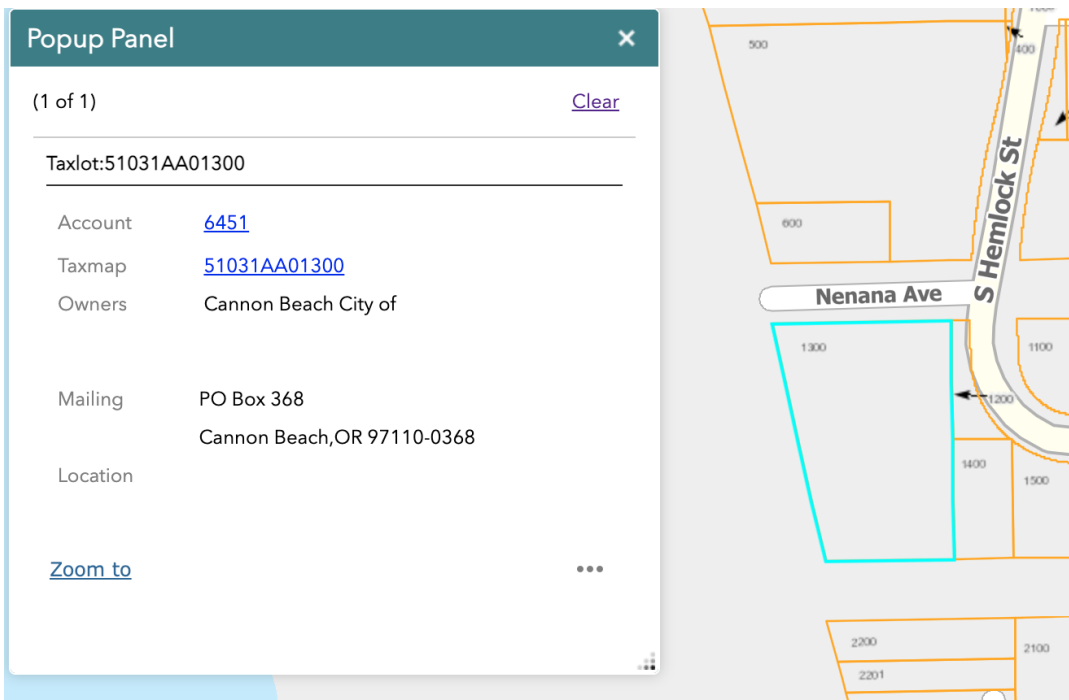
get to have access to their lot while another does not? It seems a dangerous precedent for going forward.

From looking at the County GIS data I see that there is a "street" already on record, albeit it is clearly not built out. Why can't this public right of way be used to enable the Roberts' to access their property?



The Roberts' lot is surrounded by lots which benefit from use of public rights of way that have been built out. Indeed, there are city leaders who live nearby to this lot and enjoy access to their property via previously improved rights-of-way. It seems a very dubious position for the City to not allow one property owner the same level of access they afford to all others.

Additionally, there is a beautiful property that is city owned just to the south. I can imagine this could be a lovely city park out outlook spot with benches and an amazing coastal view for the public to enjoy, if only it were able to be reasonably accessed.



If we apply the approach of *"how can we help them, provided it is reasonable, and provides a win-win for the community at large?"* I could imagine a scenario in which the Roberts' get access to their property and the public gets access to their land across the Nenana Ave right-of-way that is currently on the books.

Perhaps the Roberts' would even be willing to bear the cost of making this initial public improvement, since it would afford them the access they need for their property, all the while creating a durable and long-term public benefit for the community.

When we shift from "us vs. them" thinking to "all of us together" thinking, I bet we can accomplish a lot more to benefit the community and the place we live in a balanced way.

Thanks for listening.

Best regards,

Caleb Whitmore

PO Box 1175  
Cannon Beach OR 97110

**From:** [Lolly Champion](#)  
**To:** [Sam Steidel](#); [Mike Benefield](#); [Brandon Ogilvie](#); [Nancy McCarthy](#); [Robin Risley](#); [Bruce St. Denis](#); [Karen La Bonte](#); [Jeffrey Adams](#); [Jennifer Barrett](#)  
**Subject:** Robert's Easement  
**Date:** Monday, February 28, 2022 12:16:02 PM

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February 28, 2022

To: Cannon Beach City Councilors,

cc: Bruce St. Denis, Karen LaBonte, Jeff Adams, Jennifer Bennett

From: Lolly Champion – P.O. Box 614 – 420 Elk Creek Rd. #602 – Cannon Beach

**Re: The Robert's request for an Easement for their Flying Driveway-off-ramp Structure**

I believe the Council and the city administrators have previously acknowledged how the majority of the community feel about the many requests and litigious attempts by the Robert's to push through their exaggerated plans for an easement.

How rewarding it would be that governance could not be overpowered by the wealthy and powerful. That they too had to respect the conditions established by the laws and ordinances designed for the long term benefit to protect and preserve the community they are choosing to litigate to expand to meet their personal goals.

Fingers crossed your decision will be to continue to uphold existing procedures within the law and will not this time be overpowered by the Roberts.

Thank you for reviewing my comments.

Lolly Champion

**From:** [Jack Clark](#)  
**To:** [City Hall Group](#)  
**Subject:** Written comment regarding proposed driveway City Council Meeting March 1, 2022  
**Date:** Monday, February 28, 2022 2:48:45 PM

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This driveway proposal is very bad for beach side development in our community. It will ruin the character and the soul of Cannon Beach.

I am opposed to the proposed driveway for the following reasons:

To remove mature trees and build an elevated driveway to access a private residence will ruin the view of the beachside between Inspiration Point and the West-Bouvy Log House. Also with the removal of mature trees there is the very high risk of losing more trees during strong storms. Removing trees and foliage will increase the risks of landslides causing damage to surrounding property and infrastructure.

Creating a new intersection at the top of the Hemlock curves is a very bad idea. Drivers going north on Hemlock in the late afternoon will not be able to see cars turning from Nenana onto Hemlock because of sun glare. In addition the view from the top of the Hemlock Curves south is one of the most breathtaking views in Oregon. People will be looking at the view south out their windshield not looking for cars to pull out in front of them. We live at the bottom of the Hemlock Curves and have had 3 accidents on our property due to drivers going off the road and into our yard in the last 2 years. We should not make the Hemlock Curves more dangerous than they already are by putting a blind intersection at the top.

Building an elevated driveway/bridge to access the residence on unimproved Nenana Ave is also a very bad idea. Especially between Inspiration Point and the West-Bouvy Log House. The bridge structure would be an eyesore in a beautiful scenic area. It will diminish the view of the log house, diminish Inspiration Point and will diminish the natural setting of Haystack Rock, the trademark and brand of Cannon Beach.

Also, I can't imagine how this elevated driveway structure could be built without violating the city's ocean shore setback rules. It will stick out like a sore thumb. The computer renderings in the proposal do not do justice to the negative impact of the structure. It would simply destroy the view and diminish the character and scenic beauty of Cannon Beach.

Again, I believe this development is bad for our community. It will have a negative impact on scenery around Haystack Rock. I will make the Hemlock Curves more dangerous. Ultimately it will diminish the beauty and livability of Cannon Beach.

Jack Clark  
263 Yukon  
Property owner Cannon Beach

**From:** [direx@charter.net](mailto:direx@charter.net)  
**To:** [City Hall Group](#)  
**Subject:** Roberts Driveway Access Easement  
**Date:** Monday, February 28, 2022 3:33:32 PM

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To Cannon Beach City Councilors:

Regarding the Roberts Driveway Access Easement, as a citizen of Cannon Beach, I object to the city's granting an easement to a private developer on a street belonging to the public. The S-curves, which have been problematic for years, have only within recent memory been improved to the point of being relatively stable. In spite of this, heavy traffic in a small space still creates difficulties which would only be exacerbated by creating another access to property on the west side.

In addition, the required retaining wall would add another unsightly industrial wall to those already installed in Cannon Beach, much to the regret of neighbors.

Please prevent this private degradation of beachfront property that is valuable not only to Cannon Beach citizens but to visitors who come to enjoy the area.

Sincerely,

Diane Amos

P. O. Box 494

Cannon Beach, OR 97110

503-436-0936

**From:** [John Neupert](#)  
**To:** [City Hall Group](#)  
**Subject:** March 1, 2022 Hearing re Easement  
**Date:** Monday, February 28, 2022 4:06:00 PM

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Dear Councilors-

I am a member of Haystack Rock, LLC. Haystack's attorneys, through Mr. Will Rasmussen, have provided you with detailed legal arguments why the proposed easement is unwarranted and unlawful. I want to highlight 3 related, but interconnected matters.

First, the context. Remember that Mr. Roberts has publicly declared he does not want to build what he regards as a small house on Lot 13. He wants to build his preferred house which the Oregon Court of Appeals says he cannot build. So last week Mr. Roberts filed a petition for review in the Oregon Supreme Court in an effort to get the Court of Appeals reversed. You should know in a few months, if not before, whether the Supreme Court will accept review. If it does not, then Mr. Roberts, if he is true to his word, won't build the smaller house and this whole easement issue becomes moot.

Second, and relatedly, in his February 25, 2022 legal memorandum, the City's land use lawyer has told you that you don't have to consider the easement issue first. Rather the City can process the development application first or consider detailed plans for a driveway. Haystack's recently retained traffic engineer says safety cannot be evaluated until those detailed plans are available. So, again, there is no practical need to consider the easement now.

Finally, the lawsuit just filed provides an opportunity to get definitive rulings from the Clatsop County Circuit Court on the many legal issues that divide the parties. Those rulings may provide the parties an impetus to resolve the case through a mediated settlement and everyone knows most cases settle. In mediation, the parties may reach an agreement on options other

than those laid out by Staff in the packet. For example, maybe Mr. Roberts would agree to sell Lot 13, something Haystack has already proposed. And a sale may become more desirable, particularly if the Supreme Court denies review and the trial court makes rulings that Haystack seeks.

In conclusion, at a minimum, Council should not take action until the Oregon Supreme Court decides whether to take the case up. And, really the Council should await an outcome in the lawsuit—why move forward on an easement only to have the court invalidate it. In the meantime, if Mr. Roberts wants, the City may process the development application and request the necessary details to evaluate the safety of a Nenana-Hemlock intersection. There simply is no need or legal requirement to move forward on this easement issue now.

John F. Neupert



February 28, 2022

VIA EMAIL  
CBCOUNCIL@CI.CANNON-BEACH.OR.US

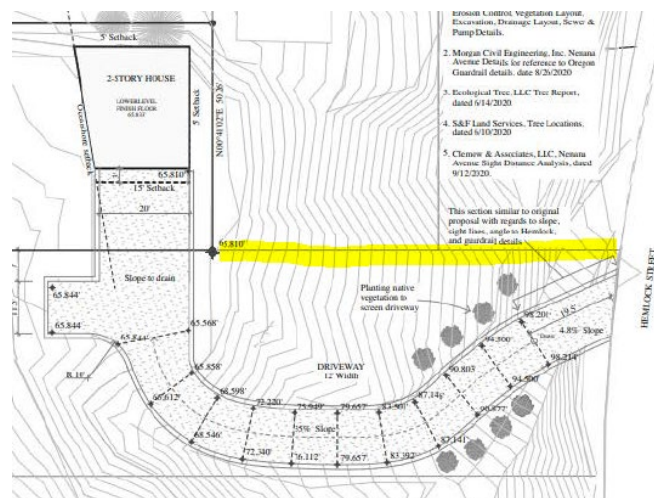
Cannon Beach City Council  
City of Cannon Beach  
PO Box 368  
163 E Gower St  
Cannon Beach, OR 97110

Subject: Private Driveway Easement to Stanley and Rebecca Roberts (“Applicants”)  
Blocking Access to Public Right of Way

Dear Councilors,

I submit this letter in opposition to the private driveway easement over Nenana Avenue requested by Applicants. The City has no authority to grant such a private easement over public right of way. Even if the City did, the easement should not be granted because the elevated driveway would block public use, destabilize the hillside, accelerate an active landslide, and create a dangerous intersection with Hemlock Street. At a minimum, City Council should pause its consideration of the easement until (1) Applicants have committed to a driveway design, supported by basic design materials, (2) a traffic safety study has been completed on the reconfigured intersection, and (3) the circuit court has resolved the relevant legal questions through the declaratory judgment action that was filed by Haystack Rock, LLC.

I am a member of the family that owns the Oswald West Cabin property (through Haystack Rock, LLC) that abuts the section of Nenana Avenue proposed to be dedicated to Applicant's use. Although the easement purports to be nonexclusive, the driveway proposed by Applicants will be an elevated structure crossing the entire width of Nenana Avenue along our property (boundary highlighted in yellow):



One of our lots has frontage only on unimproved Nenana, just like the Robertses' lot. Allowing Applicants to construct an elevated private driveway across the front of our lot will block access by my family and guests, as well as the general public. This is not allowed under the dedication of Nenana in the Tolovana Park plat, which states that it is "to the public for its use as thoroughfare forever . . . ." Further, the City has no power to convey such a property interest to Applicants because it merely holds an easement over Nenana Avenue for the public's benefit. The driveway proposed by Applicants would be located on land we own under the public right of way, which cannot be done without our consent—and we do not consent.

Even if the City had the power to convey the private easement over our property and public right-of-way, it should not do so. First, Applicants have failed to provide even basic materials to the City about the design of the proposed driveway to show its safety and compliance with City standards. In fact, Applicants have not even committed to a design at all. At a minimum, the City should not move forward with Applicants' easement request until they have submitted a definite design (to be tied to the easement terms) and basic supporting materials so the City and public can assess safety.

Regardless of the design details, however, we do know that the proposed driveway will be partially built directly on grade of the steep hillside<sup>1</sup> and intersect with Hemlock Street. These two elements alone are sufficient to reject any driveway proposal because Applicants' own past application materials clearly show that both features are unsafe.

First, the geotechnical investigation report by Earth Engineers prepared for Applicants in 2020 stated that a road structure should not be placed directly on the slope of Nenana Avenue because it would add too much weight to the surface of the active landslide thereunder and would likely interfere with the City's drainage system that is critical to the stability of the entire hillside. The City must require a new geotechnical report explaining why these issues are no longer applicable *before* it moves forward on a driveway proposal that Applicants' own experts said was unsafe.

Next, Applicants' 2020 traffic study of the previously proposed intersection between Hemlock Street and Nenana stated that sight-distance minimums could not be met for all turns. It concluded that collisions will likely be unavoidable once one car is stacked behind a vehicle turning left onto Nenana—and that analysis was only at the 85<sup>th</sup> percentile speed. Applicants' engineer claimed that these risks somehow still met general road design standards put out by a national organization. Applicants' 2020 traffic report did not provide an opinion, however, on whether the intersection met the stricter requirement in the City's code that a right-of-way improvement is only permitted if it "maintains public safety." CBMC 12.36.030(B)(1). This new proposal calls for a steeper driveway and different angle of intersection with Hemlock.

We seriously question whether a Hemlock-Nenana intersection could meet national standards and are nearly certain that it would not maintain public safety. Accordingly, we have hired our own traffic engineering consultant to provide analysis relevant to both issues. Such analysis,

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<sup>1</sup> According to statements by Applicants, they believe that building a "driveway" instead of a public road allows them to ignore road safety design standards in order to build on grade instead of the floating overpass previously proposed that clearly could not meet City right-of-way standards.

however, must be based on the specific design of the intersection. The conceptual driveway in Applicants' easement request materials is significantly narrower than the public road proposal previously analyzed by Applicants' traffic engineer. Thus, the 2020 study is no longer valid and Applicants must provide specific design details for our consultant to prepare the new analysis. Attached is the letter from our traffic engineer outlining the specific details required.

Finally, the attorneys for Haystack Rock, LLC, filed a declaratory judgment action to resolve the key legal issues in this case. The intent was to shield the City from Applicants' repeated threat of filing a takings lawsuit if it did not allow the improvement of Nenana Avenue, permit City Council to avoid making legal determinations outside its expertise, and generally provide clarity to City Council in making decisions on this and future applications for development of Nenana Avenue and Applicants' property. We ask (and expect) that the City will pause its consideration of granting the easement until the court says whether it has the power to do so.

Very truly yours,

*Kevin Neupert*

Kevin R. Neupert

Attachment



321 SW 4th Ave., Suite 400  
Portland, OR 97204  
503.248.0313  
lancastermobley.com

February 25, 2022

Haystack Rock, LLC  
c/o Steven Liday  
Miller Nash LLP  
111 SW Fifth Avenue, Suite 3400  
Portland, OR 97204

Dear Sirs,

Thank you for engaging Lancaster Mobley to conduct a study of the available sight distance and transportation safety implications of the proposed access to S Hemlock Street within the Nenana Avenue right-of-way in Cannon Beach, Oregon.

In order to complete our analysis of the sight distance, safety, and operation of the new intersection, we will require the following information:

- A detailed drawing of the configuration of the driveway as it intersects S Hemlock Street. This includes the following:
  - Details on how the new driveway matches into the existing pavement on S Hemlock Street.
  - A to-scale drawing that in addition to design details for the new driveway, includes features on the existing portion of S Hemlock Street that are relevant to the operation of the driveway:
    - Location of the edge of pavement,
    - All existing striping, including lane and shoulder widths,
    - Location of existing guardrail,
    - Location of any new guardrail along the new driveway alignment.
    - The point of the grade break between S Hemlock Street and the proposed 4.8% grade of the new driveway approaching S Hemlock Street
    - Any trees planned for removal along S Hemlock Street either on the subject property or within the Nenana Avenue right-of-way.

Until we have the information noted above, we will not be able to proceed with our analysis.

Sincerely,

Todd E. Mobley, PE  
Principal

**From:** [Geri Rumbolz](#)  
**To:** [City Hall Group](#)  
**Cc:** [Geri Rumbolz](#)  
**Subject:** Private easement/Proposed Driveway (Roberts) \_OPPOSED  
**Date:** Tuesday, March 1, 2022 7:46:13 AM

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Ladies and Gentlemen,

This to express our total opposition to the captioned proposed private easement. We cannot conceive of one reason to grant the easement request, but there are several reasons not to do so, as briefly noted below.

1-Increased risk of landslide for Hemlock Street and the homes in the surrounding area, as this a known active landslide area. Geological reports indicate the overall slope is unstable. It is in an earthquake zone and subject to erosion. The proposed project could only exacerbate the environmental risks in the area.

2-Traffic issues around the S-curves will worsen; it already has blind corners and this would potentially increase accidents. There are also a lot of pedestrians and cyclists in the area due to the viewpoints; sudden stopping of one vehicle that cannot be seen on a blind corner might also put such persons at risk.

3-There are no benefits for the City by granting a private easement. It might well increase the cost and difficulty of maintaining the underground dewatering system, which as apparently necessary to keep the S-Curve hillside stable. It makes no sense to impede the City's access to this remedial work for the benefit of a single property owner.

4-There is no compelling reason associated with this request to approve a private easement on a public thoroughfare, that was supposed to be "forever".

My husband and I have owned a home at 1816 S Hemlock, just northwest of the S-curves for almost 9 years. Approval of this application can only cause increased risk of damage to our property and of many others in the area. We are very familiar with the significant restrictions associating with doing anything on our property to prevent erosion; it would be extremely unfair for the City to permit this work to the detriment of other property owners, and with no benefit to the City--only increased cost traffic and geological risks.

Thank you for the opportunity to provide comment and we sincerely hope you will deny granting the requested private easement.

Kindest Regards,  
Geri Rumbolz

**From:** [Katie Hillenhagen](#)  
**To:** [Jennifer Barrett](#)  
**Subject:** FW: Roberts' easement  
**Date:** Tuesday, March 1, 2022 8:17:16 AM  
**Attachments:** [image001.png](#)

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**Katie Hillenhagen**

*Administrative Assistant* - Planning Department

**City of Cannon Beach**

**p:** 503.436.8054 | **tty:** 503.436.8097 | **f:** 503.436.2050  
**a:** 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110  
**w:** [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | **e:** [hillenhagen@ci.cannon-beach.or.us](mailto:hillenhagen@ci.cannon-beach.or.us)

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

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**From:** Susan Glarum <[beachie47@gmail.com](mailto:beachie47@gmail.com)>  
**Sent:** Tuesday, March 1, 2022 8:16 AM  
**To:** Planning Group <[cbplanning@ci.cannon-beach.or.us](mailto:cbplanning@ci.cannon-beach.or.us)>  
**Subject:** Roberts' easement

We are strongly opposed to the Roberts' request for an easement. Please don't allow this to happen.

Susan Glarum and Darrell Clukey  
PO BOX 108, 563 N Laurel  
Cannon Beach, OR 97110

**From:** [Anita Dueber](#)  
**To:** [Jennifer Barrett](#)  
**Subject:** Fwd: Robert's Driveway Easement  
**Date:** Tuesday, March 1, 2022 9:34:17 AM

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Hi Jen,

It has just occurred to me that I should have included you in my correspondence to Council. My apologies, guess I thought all emails to City staff go through you! And please forward to other Staff and Committee Members as warranted.

Thank you,  
Anita

----- Forwarded message -----

**From:** **Anita Dueber** <[atrain.ad@gmail.com](mailto:atrain.ad@gmail.com)>  
**Date:** Mon, Feb 28, 2022 at 8:44 PM  
**Subject:** Robert's Driveway Easement  
**To:** <[steidel@ci.cannon-beach.or.us](mailto:steidel@ci.cannon-beach.or.us)>, <[benefield@ci.cannon-beach.or.us](mailto:benefield@ci.cannon-beach.or.us)>, <[ogilvie@ci.cannon-beach.or.us](mailto:ogilvie@ci.cannon-beach.or.us)>, <[risley@ci.cannon-beach.or.us](mailto:risley@ci.cannon-beach.or.us)>, <[nmccarthy@ci.cannon-beach.or.us](mailto:nmccarthy@ci.cannon-beach.or.us)>, Bruce St. Denis <[stdenis@ci.cannon-beach.or.us](mailto:stdenis@ci.cannon-beach.or.us)>

I would like to submit my support of the opposition to allowing the easement for an access driveway to be built on a geologically active landslide for the purpose of constructing a large residential home. For many reasons.

The Attorney for the Robert's cites various Court rulings regarding easement access allowance, and I am not a Land Use lawyer, but those cited rulings seem to pertain to urban and suburban cases, which this case clearly is not about. This particular location is a known geologically fragile area and a natural landscape for observing the Nationally recognized Haystack Rock. Also given the Visual Renderings of the Driveway, it is beyond an eyesore to the Natural beauty enjoyed by all residents as well as visitors to Cannon Beach.

It seems to me, that if the Robert's honestly wanted to be good standing community members, they would acknowledge and understand the dire consequences of their request. And perhaps consider donating the property to become a passive park!

Also, the Neupert Family are well respected long time supporters and residents of Cannon Beach. The fact that the Oswald West log cabin was replicated after the fire that destroyed the original log cabin is a testament to their love of the community and maintaining the historic aesthetics of Cannon Beach. They are to be applauded for not building a Mega Mansion.

To quote a recent comment by a Council member "We work for our constituents". Clearly, the residents of Cannon Beach DO NOT want to see what this easement would produce if approved.

Thank you,  
Anita Dueber





February 28, 2022

Mayor Seidel and City Council  
City of Cannon Beach  
163 E Gower Ave  
Cannon Beach, OR 97110

Dear Mayor and City Council,

We are writing in opposition to granting the Roberts a Driveway Access Easement. While we understand the City's obligation to make every effort to provide the Roberts with a safe and effective way to access their property by vehicle, we do not believe this is possible while also upholding the City's greater obligation to the public's safety.

During the City Council's work session of November 9, 2021 there was discussion regarding how steep and dangerous Nenana Ave. is leading to their proposed home site. This concern for public safety has prohibited Nenana Ave. from being developed into an improved public road.

Councilor Benefield said if the City was willing to allow this steep road to become a private driveway it could instead waive the "steep road" prohibition and allow Nenana Ave. to be developed into an improved public road. He said the City could mark it with signs as was done at Ash St., to discourage traffic. (He said this could be done rather than making it a private driveway and trusting the Roberts to take care of it, pay for it and allow City access to Inspiration Point.)

Mr. St. Denis replied that road standards are to provide safety and that setting aside those safety standards would set a dangerous precedent.

We believe if Nenana Ave is not safe enough to be developed into an improved road for the public, it is not safe enough to be used as the access route to a home on an unstable, landslide-prone lot.

If setting aside the road standards in order to allow this dangerously steep road to be developed into a public road would set a dangerous precedent, then surely allowing a homeowner a Driveway Access Easement in a public

right-of-way to create a private driveway would also set a dangerous precedent.

If the safety concerns about Nenana Ave. being used as a private driveway are great enough to suggest the requirement of a gate to shut out the public, then again, it is not safe for use as a private driveway for the people who live in and visit the proposed home.

Yet another safety concern is the dangerous intersection this will create off of Hemlock St. Mr. Adams has stated that because of the shape of the S-Curves this is the only viable access point to the Roberts' property. While it might be the best point to access their property, that doesn't mean it is advisable to create an access point there when considering the safety of those traversing the S-Curves. Both our collective knowledge of the S-Curves, and the Roberts' own traffic study tell us this will be adding another trouble spot to an already dangerous stretch of road we, along with thousands of visitors, must rely on.

At both the November 9, 2021 and January 11, 2022 meetings there was discussion of the City's ability to add conditions to the Easement's approval to guarantee the City's satisfaction with the Easement Agreement. We do not share the City's optimism on the power and effectiveness of employing conditions. Unfortunately, we have seen through our sorry experience with the Nicholson PUD that the City's ability to both anticipate needed conditions — and enforce adopted conditions — is painfully unsatisfactory.

For these reasons we believe the City must conclude that allowing regular motor vehicle access to the Roberts' property is unsafe for both the Roberts and the public and therefore not grant them a Driveway Access Easement.

Thank you for your consideration,

Dianna Turner and Jeff Harrison  
On behalf of the Friends of the Dunes at Cannon Beach

**From:** [Hans Lindstrom](#)  
**To:** [City Hall Group](#)  
**Subject:** FW: Public Hearing Notice - Driveway Access Easement (Stan & Becky Roberts)  
**Date:** Tuesday, March 1, 2022 12:02:56 PM

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**From:** Hans Lindstrom  
**Sent:** Tuesday, March 1, 2022 11:44 AM  
**To:** [planning@ci.cannon-beach.or.us](mailto:planning@ci.cannon-beach.or.us)  
**Subject:** Public Hearing Notice - Driveway Access Easement (Stan & Becky Roberts)

To Cannon Beach Planning Dept (Jeff Adams, Community Development Director):

Regarding said driveway access easement:

We are opposed to said easement for the following reasons, most of which have also been set forth by the City of Cannon Beach:

1. The access would be out of character with the adjacent and surrounding properties and not in the public's best interest.
2. The access would block access from adjacent and neighboring lots.
3. Alternative, more positive uses in the public's best interest would be forfeited if said easement was granted.
4. The safety of the Hemlock S-curve traffic would be dangerously compromised causing potential accidents and liability to the City.
5. The approval of said easement would increase the risk of landslides to Hemlock and surrounding properties due to the City's dewatering system being compromised, as well as from the subsequent construction of the driveway.
6. It is unlawful for public right-of-ways to be dedicated to private use.
7. The City is obligated as the trustee for the Nenana right-of-way to use it for the public's best interest. Creating unsafe conditions, needless removal of trees and stabilizing vegetation, preventing alternative better public uses, intrusion of the ocean front setback, and not withstanding other negative impacts is not in the best interest of the public and surrounding properties.

Best regards,  
Hans & Ann Lindstrom

PO Box 188  
Cannon Beach, OR 97110

**From:** [Susan Lindsay](#)  
**To:** [City Hall Group](#); [Planning Group](#)  
**Cc:** [Jeffrey Adams](#)  
**Subject:** Roberts Easement Request: Deny  
**Date:** Tuesday, March 1, 2022 12:39:52 PM

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Honorable Members of the Planning Commission,

I write in firm opposition to the City of Cannon Beach allowing an easement for a private driveway in the S-Curve of Hemlock Street.

Safety Nightmares, Tree Destruction, Slope Destabilization, View Destruction, Private Use of Public Land...the reasons not to do this are numerous and obvious.

It is really a bad idea and should not be supported by the City of Cannon Beach, no matter what the pressure being brought to bear is.

Please do what is right and deny this request...it is misuse of public lands and on top of that, creates a safety nightmare.

Thank you,

Susan Lindsay  
long-time property owner and taxpayer  
Cannon Beach, OR

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Susan Lindsay