



BEFORE THE CITY OF CANNON BEACH

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| IN THE MATTER OF A DEVELOPMENT PERMIT |) | |
| FOR REMEDIAL DUNE GRADING AT 1264, |) | |
| 1288, 1296, AND 1316 S. PACIFIC ST, TAXLOTS |) | |
| 03300, 03401, 03402, AND 03403, MAP |) | |
| 51030DA APPROVING THE REQUEST AND |) | |
| ADOPTING FINDINGS |) | FINDINGS OF FACT, CONCLUSIONS, AND ORDER DP#23-19 |


ZONE: Residential Medium Density (R2)
Oceanfront Management Overlay (OM)
Flood Hazard Overlay (FHO)

APPLICANT: Bob McEwan Construction
P.O. Box 2845
Gearhart, OR 97138

The above-named applicant applied to the City for review and approval of a permit to perform remedial dune grading to manage sand encroachment at 1264, 1288, 1296, and 1316 S. Pacific St. The City of Cannon Beach orders that the request for remedial dune grading is granted and adopts the following findings of fact, conclusions, and conditions contained in Exhibit A.

This decision may be appealed to the Planning Commission by an affected party by filing an appeal with the City within fourteen days of this date.

DATED: May 9, 2023



Robert St. Clair
Planner

EXHIBIT “A”
FINDINGS OF FACT
REMEDIAL DUNE GRADING – DP#23-19

PROPERTY DESCRIPTION: Taxlots# 3300, 03401, 03402, and 03400, Map 51030DA
PROPERTY LOCATION: 1264, 1288, 1296, and 1316 S. Pacific Dr.
APPLICANT: Bob McEwan Construction
PROPERTY OWNERS: 1264 S. Pacific Street. LLC, 1288 Pacific LLC, Hay Georgiana F Tr,
Niedermeyer Linus James
ACTION: Approved

BACKGROUND

The project is the grading of sand adjacent to the western property line of the subject properties for the purpose of managing sand that is encroaching on the subject properties. No material will be added or removed by this project.

APPLICABLE CRITERIA

The following sections of the Cannon Beach Municipal Code are applicable to this application:

- 17.42 – Oceanfront Management Overlay Zone
- 17.92.010 – Development Permit

FINDINGS

- (1) Section 17.42.030(D)(3) allows remedial dune grading as a permitted activity in the Oceanfront Management Overlay zone.

D. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provisions of Section 17.92.101, Development permits:

3. Remedial dune grading.

- (2) Section 17.42.060(A)(4) defines specific standards for remedial dune grading in the Oceanfront Management Overlay zone.

Remedial Dune Grading. “Remedial grading” is the clearing of sand necessary to maintain the function of a structure and includes the removal of sand that has built up against exterior walls, doors, or windows of a structure and that blocks access to a residential or commercial structure, or any public facility, utility or infrastructure. Permits for remedial grading may be approved subject to the following requirements:

- a. Rear yard sand may be removed to the level of the top sill of the foundation, as measured from within thirty-five feet of the habitable structure. From the ten-foot line, the graded area shall slope upward to the elevation of the fronting foredune. This slope shall not exceed fifty percent.*

- b. *Side yard sand that is landward of the structure may be removed to the top of the sill of the foundations, provided grading in this area does not create a slope in excess of fifty percent with adjacent properties.*
- c. *Where the front yard is seaward of the structure, sand may be removed to the level of the top sill of the foundation, as measured from within thirty-five feet of the habitable structure. From the ten-foot line, the graded area shall slope upward of the elevation of the fronting foredune. This slope shall not exceed fifty percent.*
- d. *Grading shall not lower the front yard below the level of adjacent streets or roads, except to clear sidewalks or driveways.*

Areas graded more than three feet in height shall be immediately replanted and fertilized. All graded sand must remain within the littoral cell. Graded sand should be used to fill adjacent low dune areas. Graded sand may also be used to nourish identified areas as needed. The height of the foredune shall not be lowered. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

- (3) Section 17.92.010(A)(1)(b) states the requirements for specifically listed activity or structure types requiring a development permit.

An activity or structure specifically listed in this title as requiring a development permit. (For the purpose of this section, these are referred to as Type 2 or Type 3 development Permits.)

- (4) Section 19.92.101(C)(2) defines the administrative review procedure for Type 2 development permits.

2. Administrative review of Type 2 development permits shall follow the following procedure:

- a. *The development permit application shall be reviewed by planning department against the applicable standards contained in this title and the application shall either be approved, approved with conditions, or denied.*
- b. *A decision shall be made within twenty days of the receipt of a complete application.*
- c. *The decision of the planning department shall be by signed written order. The order shall comply with Section 17.88.110(B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.*
- d. *The applicant shall be notified of the decision in accordance with the provisions of Section 17.88.130. Property owners within one hundred feet of the exterior boundary of the subject property shall likewise be notified.*
- e. *A decision on the development permit may be appealed to the planning commission in accordance with Section 17.88.140.*

CONCLUSIONS

The Community Development Department has reviewed the application and determined that it meets the applicable criteria.

DECISION

The remedial dune grading has been approved subject to the following conditions:

1. The applicant shall coordinate this project with Oregon Parks and Recreation Department and obtain all permits required for this work including beach access for vehicles.
2. The project shall adhere to the specific standards for remedial dune grading defined in CBMC Section 17.42.040(A)(4).
3. The completed work shall be reviewed by the City of Cannon Beach to confirm that the remedial grading does not constitute a major change of character.
4. The use of motorized equipment shall be limited to between the hours of 7:00 AM and 7:00 PM per Municipal Code Section 8.16.

Site Photograph: 1264 S. Pacific – May 9, 2023



Site Photograph: 1288 S. Pacific St. – May 9, 2023



Site Photograph: 1296 S. Pacific St. – May 9, 2023



Site Photograph: 1316 S. Pacific St. – May 9, 2023



Site Photograph: Project area looking north from S. Pacific St. pedestrian beach access – May 9, 2023



Site Map, DP 23-19

