



BEFORE THE CITY OF CANNON BEACH

**IN THE MATTER OF A TYPE 2 DEVELOPMENT PERMIT)
FOR TAXLOT# 51031AA00600 FOR STABILIZATION PINNING)
OF A GEOLOGICALLY HAZARDOUS AREA THROUGH)
CHAPTER 17.50 DEVELOPMENT REQUIREMENTS FOR)
POTENTIAL GEOLOGIC HAZARD AREAS AND CHAPTER 17.62)
GRADING, EROSION AND SEDIMENTATION CONTROL)**

**FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER DP# 21-20**

IN ZONE: RL
APPLICANT: Stanley A. Roberts
925 Lake St. S #201
Kirkland, WA 98033

The above-named applicant applied to the City for review and approval of a type 2 development permit described above under Chapter 17.62 Grading, Erosion and Sedimentation Control of the Cannon Beach Municipal Code. The Community Development Director considered the above entitled matter and conditionally approved the development permit on 9/21/2021. The City of Cannon Beach orders that this request for approval of a development permit is granted subject to conditions, and adopts the findings of fact, conclusions and conditions contained in attachment 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: 9/21/2021

Jeffrey S. Adams, PhD
Community Development Director



Attachment "A"
FINDINGS OF FACT
ROBERTS – DP#21-20

PROPERTY DESCRIPTION: Taxlot# 51031AA00600

PROPERTY LOCATION: Off S. Hemlock Rd, at the W. Nenana Right-of-Way

SUMMARY: Applicant, Stanley A. Roberts, is requesting to install a stability beam and its supporting micro-piles, as identified on the accompanying plans and reports. Cannon Beach Municipal Code permits geohazardous locations to be stabilized through Chapters 17.50 Development Requirements for Potential Geologic Hazard Areas and Chapter 17.62 Grading, Erosion and Sedimentation Control.

CRITERIA:

17.50.040 Reports and plans required.

A. *Geologic Site Investigation Report.*

1. *A geologic site investigation report shall be prepared by a registered geologist or engineering geologist. The report is to be prepared in conformance with the city's site investigation report checklist.*

2. *Where recommended by the geologic site investigation report, or required by the building official, an engineering report prepared by a registered civil engineer shall be prepared. The report shall discuss the engineering feasibility of the proposed development and include findings and conclusions for: the design and location of structures; the design and location of roads; the design and location of utilities; land grading practices, including excavation and filling; stormwater management; and vegetation removal and replanting.*

3. *The burden of proof shall be upon the applicant to show construction feasibility. A proposed use will be permitted only where:*

a. *The geologic site investigation report indicates that there is not a hazard to the use proposed on the site or to properties in the vicinity; or*

b. *The geologic site investigation report and engineering report specifies engineering and construction methods which will eliminate the hazard, or will minimize the hazard to an acceptable level.*



4. *The standards and recommendations contained in the geologic site investigation and engineering report, upon acceptance by the building official, shall become requirements of any building permit that is issued.*

5. *The building official may have the geologic site investigation report, or the engineering report reviewed by an independent expert of his or her choosing. Such a review may address either the adequacy or completeness of the site investigation, or the construction methods recommended in the engineering report. The applicant shall pay for the cost of the review.*

6. *A geologic site investigation report shall remain valid for a period of not more than five years from the date of its preparation. The continued reliance on a geologic site investigation report that is more than five years old requires the following additional new information:*

a. *An on-site re-inspection of the site by a qualified individual to determine if there has been any change in circumstances.*

b. *If no change in circumstances is found, a short report noting or including:*

I. *A description of site conditions and any changes between the date of the original geologic site investigation report and the date of the re-inspection;*

II. *Any additional maps, aerial photographs or other documents consulted; and*

III. *Conclusions regarding the accuracy of the original geologic site investigation report.*

c. *If a change in circumstances is noted, the information in subsection (b) of this section shall be provided along with:*

I. *Additional field data needed to verify and document any change in the status of the area;*

II. *Revised mapping;*

III. *Data, documentation, and other information as needed to define the existing geologic condition of the property; and*

IV. *Revised recommendations and conclusions based on the changed circumstances applicable to the property.*

Applicant has provided plans that call for a stability beam and its supporting micro-piles to be placed to shore-up the slopes, protecting homesite.

The location of the work is depicted by Civil Engineering Plans drawn by Jason Morgan, PE, CE Morgan Civil Engineering, Inc. The structures are shown by Engineering Plans and Calculations prepared by Miller Consulting Engineers, Inc. A Plan Review is provided by Don Rondema, MS, PE, GE, Geotech Solutions.



All Right-of-Way work will be conditioned upon review and approval under the Public Works Director's Right-of-Way permitting criteria.

The stabilization, under 17.50.040(A.1) is recommended by Don Rondema, Geotechnical Engineer, MS, PE, Geotech Solutions. Plans are provided, under 17.50.040(A.2), by Jay Raskin Architect and Miller Consulting Engineers, Inc. Construction feasibility, under 17.50.040(A.3) is met through the letter submitted and attached, by Don Rondema, dated September 2, 2020, which states "we have reviewed the plans and they conform to our geotechnical analyses and report recommendations for the stability pile system." Mr. Rondema speaks to (A.3a) when he states, "these piles will also improve the stability of adjacent and upslope land, including the existing homes and infrastructure such as Hemlock Street and its associated utilities."

17.62.030 Grading and erosion control permit.

A. Development Permit Required.

1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:

a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland; or

b. The proposed clearing, grading, filling, or excavation is located more than one hundred feet from a stream or watercourse or wetland and the affected area exceeds two hundred fifty square feet; or

c. The proposed volume of excavation, fill or any combination of excavation and fill exceeds ten cubic yards in a calendar year.

2. A development permit for regulated activities in conjunction with a structure requiring a building permit shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(1).

3. A development permit for regulated activities in conjunction with a subdivision or partition shall be reviewed in conjunction with construction drawings as required by Section 16.04.260.

4. A development permit for regulated activities not in conjunction with building permit, subdivision, or partition shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(2). However, notice to adjacent property owners, as specified by Section 17.92.010(C)(2)(d), is not required.

The grading for the stabilization structure will be within 100' of stream 49, as identified on the City of Cannon Beach's stream and wetlands study, under CBMC 17.62.030(a). It should be noted that the CB Wetlands study does not identify the property as a wetlands lot of record and does not require a wetlands delineation and as Mr. Watson, in his letter of August 18, 2020 states, "Based on the proposed location and the means to install the grade beam, we anticipate that there will be no regrading required at the site. We anticipate the construction to consist of excavating a trench, placing the grade beam per plans and then burying the grade beam with the soil from the excavation. All the information contained within the calculations and drawings dated August 2, 2021 remain in effect."



17.62.040 Grading standards.

A. *The review and approval of development permits involving grading shall be based on the conformance of the proposed development plans with the following standards. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards.*

1. *Cuts.*

a. *Designs shall minimize the need for cuts;*

b. *The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;*

c. *Cuts shall not remove the toe of any slope where a potential land slide exists;*

d. *Cuts shall be set back from property lines so as not to endanger or disturb adjoining property;*

e. *Retaining walls shall be constructed in accordance with Section 2308(b) of the Oregon State Structural Specialty Code.*

2. *Fills.*

a. *Designs shall minimize the need for fills;*

b. *The slope of fill surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than two horizontal to one vertical;*

c. *Fills shall be set back from property lines so as not to endanger or disturb adjoining property;*

d. *The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill;*

e. *Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practices.*

3. *Drainage.*

a. *Proposed grading shall not alter drainage patterns so that additional storm water is directed onto adjoining property;*

b. *All cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (Ord. 98-5 § 1)*

Plans indicate the grading of the site to place a fifty-foot stability grade beam, north-to-south across the site, anchored in place by a micro-piling system to ensure bank stability for a proposed foundation of a residential structure.



It should be noted that, as Mr. Rondema states in his plan review, “this pile system is not relied on by any building foundation system for structural support. It is strictly dedicated to improving the lot stability.” The applicant states, “As shown in the drawings on sheet S5.01, the stability grade beam is intended to be placed below the existing ground surface at the site.” The City has placed conditions on the approval that prohibit tree removal and grading.

Plans shall meet the standards of CBMC 17.62.040(A), with conditions of approval.

17.92.010 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.*

17.88.110 Decision.

Following the procedure described in Section 17.88.060, the hearing body shall approve, approve with conditions or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.

A. *The decision of the hearing body shall be by a written order signed by the chair or designee.*

B. *The order shall incorporate finding of facts and conclusions that include:*

1. *A statement of the applicable criteria and standards against which the proposal was tested;*

2. *A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision;*

3. *In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.*



C. *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*

CONCLUSIONS

The Community Development Department has reviewed the application, visited the site, and determined that the application meets the applicable criteria, upon the following conditions:

CONDITIONS

- 1. The approval of this Development Permit is not dependent on any other permits, nor are any other permits dependent on this permit. This approval does not affect any other pending or future permits for other development, including in any way the pending permit for Nenana Road and/or any associated house plans. Should the construction of Nenana Road and/or the house not be approved or not go forward, The City will not be responsible for reimbursement for any work being performed under this permit. As it is the applicant's decision to seek these permits separately, each permit application will be reviewed and decided on its own merits;***
2. The Revised Sheet 1, of the Stability Grade Beam plans, dated September 15, 2021, by Jay Raskin Architect, states "Stability beam installation requires no trees be removed. Trees are shown on the property and adjoining ROW for illustrative purposes only." Applicant will notify City Public Works Department 24 hours prior to the commencement of work;
3. No tree removal or grading of city right-of-way is permitted as part of this development permit;
4. A site plan of the erosion control measures shall be approved by the Public Works Director prior to ground disturbance;
5. Work shall be completed as soon as possible and any ground disturbance of exposed surfaces during the wet season (November 1 through April 30) should be temporarily planted with grasses, or protected with erosion control blankets, hydro-mulch, or hand broadcast straw a minimum of 3 inches thick and punched into the soil;
6. Exposed sloped areas steeper than 3 horizontal-to-1 vertical should be protected with a straw erosion control blanket (North American Green S150, or equivalent) to provide erosion protection until permanent vegetation can be established. Erosion control blankets should be installed as per the manufacturer's recommendations;
7. The use of motorized equipment shall be limited to the hours between 7:00 AM and 7:00 PM per Municipal Code Section 8.1;
8. Existing city infrastructure shall not be disturbed and any damages shall be at the expense of the applicant;
9. A certified geo-tech should monitor the pile installation during construction to verify that the structure's design objectives have been achieved, and notice will be provided the City at least five days prior to site disturbance.