



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

12/12/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Cannon Beach Plan Amendment  
DLCD File Number 002-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, December 26, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Mark Barnes, City of Cannon Beach  
Gordon Howard, DLCD Urban Planning Specialist  
Patrick Wingard, DLCD Regional Representative

<paa> YA



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 002-13 (19978)

[17698]

Received: 12/5/2013

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: **City of Cannon Beach**Local file no.: **A 13-01, ZC 13-01, and ZO 13-02**Date of adoption: **11/26/13** Date sent: **12/4/13**

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

☒ Yes: Date (use the date of last revision if a revised Form 1 was submitted): **08/13/13**☐ No

Is the adopted change different from what was described in the Notice of Proposed Change? ☐ Yes ☒ No  
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): **Mark Barnes, City Planner**Phone: **(503) 436-8040** E-mail: **barnes@ci.cannon-beach.or.us**Street address: **PO Box 368** City: **Cannon Beach** Zip: **97110**

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any: **N/A**

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from **F80** to **IR** **57.5** acres. ☐ A goal exception was required for this change.Change from **PK** to **IR** **3.6** acres. ☐ A goal exception was required for this change.Change from to . acres. ☐ A goal exception was required for this change.Change from to . acres. ☐ A goal exception was required for this change.Location of affected property (T, R, Sec., TL and address): **4-10-6CB-4500, 4-10-800 (partial), and 4-10-900**☐ The subject property is entirely within an urban growth boundary☒ The subject property is partially within an urban growth boundary



**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary. **N/A**

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary. **N/A**

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number: **17.37**

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from **F80** to **IR** . Acres: **57.5**

Change from **PK** to **IR** . Acres: **3.6**

Change from to . Acres:

Change from to . Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: **N/A** . Acres added: . Acres removed:

Location of affected property (T, R, Sec., TL and address): **4-10-6CB-4500, 4-10-800 (partial), and 4-10-900**

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List affected state or federal agencies, local governments and special districts: **Oregon Department of Forestry, Oregon Department of Transportation, and Clatsop County**

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

## Cannon Beach City Council

### STAFF REPORT

CONSIDERATION OF FINDINGS AND ADOPTION OF ORDINANCE 13-08, ANNEXING ABOUT 61 ACRES, CONSISTING OF TAX LOTS 4-10-900, 4-10-6CB-4500, AND A PORTION OF 4-10-800

**Agenda Date:** November 5, 2013

**Prepared By:** Mark Barnes, City Planner

### BACKGROUND

This is a request to annex about 61 acres into the city limits. The annexation petition is submitted by the land owners: the City of Cannon Beach and Lewis & Clark Oregon Timber Co, LLC. Land proposed for annexation is located east of highway 101, south of the Haystack Heights neighborhood, and north of the Tolovana Mainline logging road. Tax lot number, acreage, and ownership are summarized below:

Tax lot	Size	Owner
4-10-800	55 acres	Lewis & Clark Oregon Timber, LLC
4-10-900	3.6 acres	City of Cannon Beach
4-10-6CB-4500	2.5 acres	City of Cannon Beach

The 55-acre Lewis & Clark Oregon Timber parcel and the 3.6-acre City parcel are both currently vacant. A water tank, part of the municipal water system, is located on the 2.5-acre City parcel.

The purpose of the proposed annexation is to plan for and develop a site above the limits of tsunami inundation for essential public facilities such as a school and public safety buildings.

The Planning Commission held a public hearing on the proposed annexation at its September 26, 2013, meeting, and recommends approval. The City Council conducted a public hearing on this matter at its October 1, 2013, meeting and tentatively approved the annexation, pending review and adoption of findings.

### FINDINGS

#### 1. Comprehensive Plan Policies

The proposed annexation must be consistent with applicable Comprehensive Plan Policies. Urban Growth Area policy 6 is applicable:

*Lands may be annexed to the City if the following criteria are met:*

*a. The property is located within the City's urban growth boundary and is contiguous to the City limits;*





*b. There is an adequate level of sewer and water system capacity available to accommodate the projected development of the area, or such capacity can be made in a timely manner; and*

*c. City utilities and roads can be extended to serve the area.*

*Notwithstanding 6a, the City may annex property that is not in the urban growth boundary where it finds that the annexation is necessary for a demonstrated governmental purpose.*

With respect to subsection a, the property is contiguous to the City limits. The 3.6-acre parcel is within the City's urban growth boundary (UGB), but the 2.5 acre parcel and the 55-acre tract are outside of the UGB. The policy allows outside-of-UGB annexation where necessary for a demonstrated governmental purpose. The proposal meets this requirement because:

- The 55-acre tract and the 3.6 acre parcel are proposed for annexation for development of essential public facilities above the tsunami inundation line. Nearly all of the property is higher than the hazard area for a Cascadia earthquake and tsunami, according to maps prepared by the Oregon Department of Geology and Mineral Industries.
- For purposes of earthquake and tsunami resilience, hospitals, fire and police stations, water tanks, emergency vehicle shelters, emergency preparedness centers, standby power-generating equipment, government communication centers, and other facilities required for emergency response are all defined as essential facilities in ORS 455.447.
- Construction of new schools is prohibited in tsunami inundation zones under ORS 455.446. The former Cannon Beach Elementary School site is in a tsunami inundation zone. The City has been unable to locate a suitable school development site within the existing city limits that is both outside of the tsunami inundation zone and meets other school siting criteria.
- The types of buildings that might be sited on the property proposed for annexation are used for purposes that are either exclusively or largely provided by government, rather than by the private sector.
- The types of buildings and uses contemplated for the annexation area are not allowed in rural areas under Clatsop County zoning.

Subsection b of Urban Growth Area policy 6 requires an adequate level of sewer and water system capacity for the projected development of the area. City public works director Dan Grassick confirms that adequate capacity exists for projected development on the proposed annexation land.

Subsection c of Urban Growth Area policy 6 requires that City utilities and roads can be extended to serve the area. City public works director Dan Grassick confirms that roads, water and sewer can be extended into the site: see the email in the Planning Commission record. The City Council finds that subsection c of policy 6 can be met with a test of feasibility. The public works director has indicated that it is feasible to extend roads, water and sewer to the site. There is no contrary evidence in the record. The City Council further finds that the language in subsection c of policy 6 that reads "City utilities and roads" refers to City streets and City utilities (water and sewer); and not to other non-city facilities, such as state highways, electric power, or natural gas. The City Council further finds that questions concerning the details of highway access are premature at this point, and can be addressed via the master planning process.

Urban Growth Area policy 7 is applicable to the proposed annexation:

*Upon annexation to the City, an area shall be given a plan and zone designation that is consistent with the Comprehensive Plan, the site's environmental characteristics, the uses being proposed and is compatible with the designation of adjacent areas.*

The annexation area's proposed plan and zone designation is Institutional Reserve. This is addressed in a separate proposal and staff report.

## 2. Statewide Planning Goals

The proposed annexation must be consistent with applicable statewide planning goals. Statewide planning goal 4, forest lands, is applicable:

*To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

Tax lots 800 and 4500 are presently subject to statewide planning goal 4, and are zoned as such by Clatsop County. The proposed annexation does not, by itself, change the goal 4 status of these lands. Since the proposed annexation does not also include a UGB amendment, goal 4 still applies to tax lots 800 and 4500. Proposed City zoning on these tax lots, addressed in a separate staff report, must continue to comply with goal 4. Tax lot 900 is not subject to goal 4 because it is already within the City's UGB. Goal 4 is not applicable to lands within Urban Growth Boundaries.

Statewide planning goal 14, Urbanization, is applicable:

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The proposed annexation does not, by itself, change the rural or urban status of any of the proposed annexation land. Tax lots 800 (55 acres) and 4500 (2.5 acres) are presently rural lands, and will remain rural until the City brings them into the Urban Growth Boundary (UGB). Tax lot 900 (3.6 acres) is already within the City's UGB, and is thus categorized as urban land under statewide planning goal 14. The requirements of goal 14 can be addressed when/if the City considers a UGB amendment.

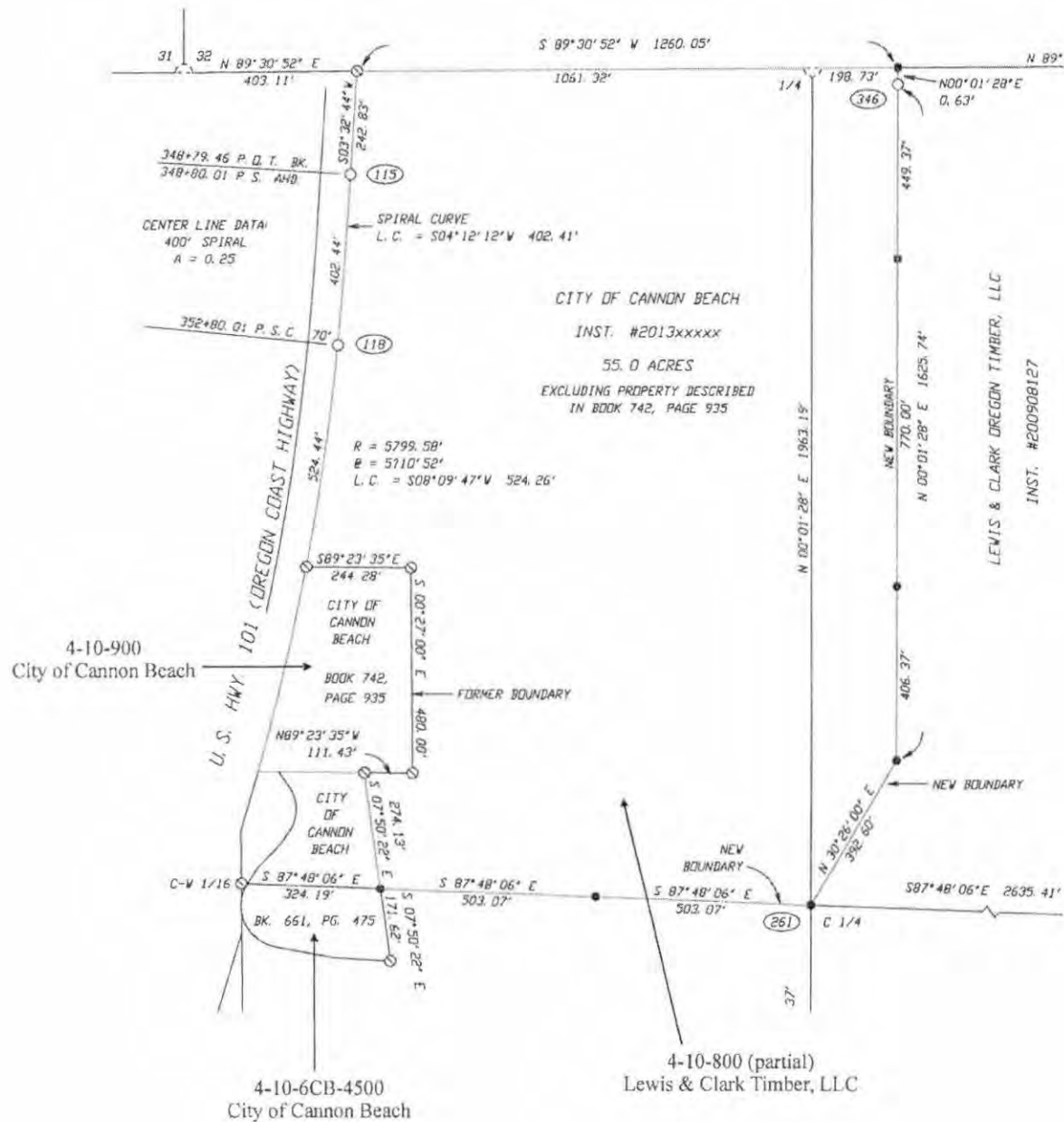
## CONCLUSION

The City Council finds the proposal consistent with applicable criteria, and approves the annexation.

## List of Attachments

- "A" Annexation Area Map
- "B" Draft Ordinance 13-08

## Annexation Map for A 13-01



BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF ANNEXING ) ORDINANCE NO. 13-08  
APPROXIMATELY 61.1 ACRES CONSISTING OF )  
PARCELS A, B, AND C, AS DESCRIBED HEREIN, )  
INTO THE CITY OF CANNON BEACH; AND )  
PROVIDING FOR THE WITHDRAWAL OF SAID )  
PROPERTY FROM CERTAIN TAXING DISTRICTS )  
ON THE EFFECTIVE DATE OF THE )  
ANNEXATION )

WHEREAS, a valid petition for annexation pursuant to ORS 222.170(1) has been received by the City; and

WHEREAS, the Planning Commission and the City Council held public hearings on the petition for annexation; and

WHEREAS, it is necessary to withdraw property from special taxing districts of the County by ordinance in order to annex the property into the City limits; now therefore,

The City of Cannon Beach does ordain as follows:

Section 1. The properties described in the attached legal description labeled "Exhibit A - Ordinance 13-08" (parcels "A", "B", and "C") are hereby proclaimed to be annexed into the City of Cannon Beach.

Section 2. Parcels "A" and "C" are hereby withdrawn from the Sunset Empire Parks and Recreation special taxing district.

Section 3. Parcels "A" and "C" are hereby withdrawn from Clatsop County Rural Law Enforcement District special taxing district.

Section 4. Parcels "A" and "C" are hereby withdrawn from Road District #1 special taxing district.

Section 5. Parcels "A" and "C" are hereby withdrawn from the 4H and Extension Service special taxing district.

Section 6. Parcel "B" is hereby withdrawn from the Fire Patrol Surcharge.

Section 7. Parcel "B" is hereby withdrawn from the Fire Patrol.

EFFECTIVE DATE: This Ordinance shall become effective upon completion of the purchase of Parcel A by the City of Cannon Beach.

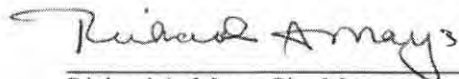
ADOPTED by the Common Council of the City of Cannon Beach this 5th day of November 2013, by the following roll call vote:

YEAS:	Councilors Steidel, Cadwallader, Higgins, Giasson and Mayor Morgan
NAYS:	None
EXCUSED:	None

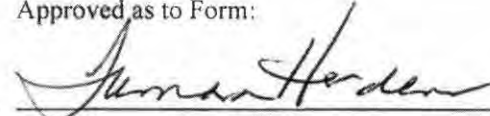


  
Mike Morgan, Mayor

Attest:

  
Richard A. Mays, City Manager

Approved as to Form:

  
Tamara Herdener, City Attorney

**Parcel "A"**

A 55 acre tract of land in Section 6, Township 4 North, Range 10 West, Willamette Meridian, County of Clatsop, State of Oregon, described as follows:

Beginning at a 5/8" rebar on the north boundary of Section 6, T4N, R10W, W.M.; said rebar bears N89°30'52"E 198.73 feet east of the north quarter corner to said Section 6; thence S89°30'52"W along said north boundary 1260.05 feet to the east boundary of U.S. Highway 101, also known as the Oregon Coast Highway; thence S03°32'44"W along said east boundary 242.83 feet to a 3/4" iron rod at right of way station 348+79.46 P.O.T. Back = 348+80.01 P.S. Ahead; thence continuing southerly along said right of way on a spiral curve to the right, the long chord of which bears S04°12'12"W 402.41 feet, an arc distance of 402.44 feet to a 3/4" iron pipe at right of way station 352+80.01 P.S.C.; thence southerly along said right-of-way on a 5799.58 foot radius curve to the right, the long chord of which bears S08°09'47"W 524.26 feet, an arc distance of 524.44 feet to the north boundary of that tract of land conveyed to the City of Cannon Beach by deed recorded in Book 742, Page 935, Deed Records of Clatsop County, Oregon; thence S89°23'35"E 244.28 feet to the northeast corner of said tract of land; thence S00°27'00"E 480.00 feet to the southeast corner of said tract of land; thence N89°23'35"W along the south boundary of said tract of land 111.43 feet to the northeast corner of that tract of land conveyed to the City of Cannon Beach by deed recorded in Book 661, Page 475, said Deed Records; thence S07°50'23"E along the east boundary of said tract conveyed by deed recorded in Book 661, Page 475, a distance of 274.13 feet to a 5/8" rebar on the east-west center line of Section 6; thence S87°48'06"E 1006.14 feet to a 5/8" rebar at the center quarter corner of said Section 6; thence N30°26'00"E 392.60 feet to a 5/8" rebar; thence N00°01'28"E 1626.37 feet to the point of beginning. Containing 55.0 acres, more or less.

**Parcel "B"**

A parcel of land described in Book 661, Page 475, Clatsop County Deed Records, located in the West half of Section 6, Township 4 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon, more particularly described as follows:

Commencing at a point which is 2098.41 feet South and 473.30 feet East of the Southwest section corner of Section 32, Township 5 North, Range 10 West, W.M., said point being in the centerline of that certain private road known as the "Tolovana Mainline Road"; thence N 3°29'40" E 15.00 feet to the True Point of Beginning (TPOB); thence N 86°30'20" W 134.32 feet; thence N 79°02'30" W 137.10 feet; thence 189.28 feet along the arc of a 98.00 foot radius curve to the right through a central angle of 110°39'40", the long chord of which bears N 23°42'40" W 161.20 feet; thence N 31°37'10" E 44.08 feet; thence N 43°42'00" E 78.56 feet; thence N 34°58'00" E 35.91 feet; thence 109.58 feet along the arc of a 90.00 foot radius curve to the left through a central angle of 69°45'40" the long chord of which bears N 00°05'10" E 102.94 feet; thence N 34°47'40" W 43.78 feet to the South line of that parcel conveyed to Clatsop County by deed recorded in Book 324, Page 450, Deed Records of said county; thence South 89°13'12" East along said South line 200.91 feet to a point which bears N 7°40'00" W from the TPOB; thence S 7°40'00" E 445.73 feet to the TPOB, EXCEPT any portion thereof which lies within the right-of-way of the relocated Oregon Coast Highway, containing 2.50 acres more or less.

**Parcel "C"**

A parcel of land described in Book 742, Page 936, Clatsop County Deed Records, lying in the Southeast 1/4 of the Northwest 1/4 of Section 6, Township 4 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon; and being a portion of that property described in that certified deed to the State of

Oregon, by and through its State Highway Commission, recorded in Book 186, Page 147, of Clatsop County Record of Deeds, the said parcel being defined as follows:

Beginning on the West line of said Southeast 1/4 Northwest 1/4 at a point directly East of the South line of Third Street of the plat of Sylvan Park; thence East 50 feet, more or less, to a line which is parallel to and 70 feet Easterly of the centerline of the relocated Oregon Coast Highway and the true point of beginning; thence continue East 350 feet, more or less, to the most Easterly Southeast corner of said property; thence North along the Easterly line of said property 480 feet to the most Easterly Northeast corner of said property; thence West 235 feet, more or less, to said parallel line; thence Southerly, parallel to and 70 feet Easterly of said centerline, to the true point of beginning.



## **Cannon Beach City Council**

### **STAFF REPORT**

CONSIDERATION OF FINDINGS AND ADOPTION OF ORDINANCE 13-09, AMENDING THE COMPREHENSIVE PLAN/ZONING MAP ON ABOUT 61 ACRES, CONSISTING OF TAX LOTS 4-10-6CB-4500, 4-10-900, AND A PORTION OF 4-10-800

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**Agenda Date:** November 5, 2013

**Prepared By:** Mark Barnes, City Planner

### **BACKGROUND**

This is a request to rezone annexed land. The request for a zone change is submitted by the land owners: the City of Cannon Beach (tax lot 4500 and 900) and Lewis & Clark Oregon Timber Co, LLC (tax lot 800). The subject property is located east of highway 101, south of the Haystack Heights neighborhood, and north of the Tolovana Mainline logging road.

The 55-acre Lewis & Clark Oregon Timber parcel (tax lot 800) is currently vacant. A water tank, part of the municipal water system, is located on the 2.5-acre City parcel (tax lot 4500). This land is presently in Clatsop County's Forest-80 zone. The third parcel, tax lot 900, is presently in the City's Parks (PK) zone. A 700 square foot (approximately) utility building is located on tax lot 900. All three parcels would be placed in the newly-created Institutional Reserve (IR) zone under this proposal.

The immediate purpose of the proposed zone change is to place the property in a plan and zone designation that is consistent with its rural character. The longer-range plan for tax lots 800 and 900 is to develop a site above the limits of tsunami inundation for essential public services such as a school and public safety buildings. This longer-range plan is not implemented by the proposed zone change, and will require a later zone change after master planning for the site is completed. The long-range plan for tax lot 4500 is to continue to maintain the water tank presently on this property.

The zone change request is one element of a package of related land use proposals before the City Council. The other elements are:

- Annexation of approximately 61 acres;
- Zoning ordinance text amendment, creating an Institutional Reserve zone.

The Planning Commission held a public hearing on the proposed zone map amendment on September 26, 2013, meeting, and recommended approval. The City Council conducted a public hearing on this matter at its October 1, 2013, meeting and tentatively approved the amendment, pending review and adoption of findings.

### **FINDINGS**

#### **1. Zoning Ordinance Requirements**

The proposed zone change must comply with requirements of the City's municipal code. Zone changes are addressed in Chapter 17.86. These requirements are excerpted below, followed by proposed findings.



*17.86.020 Authorization to initiate. ... An amendment to the zone boundary may be initiated by the city council, planning commission, or the owner or owners of the property for which the change is proposed.*

The proposed zone map amendment is initiated by the property owners, Lewis & Clark Oregon Timber LLC and the City of Cannon Beach.

*17.86.050 Classification of actions. B. The following amendment action is considered quasi-judicial under this title: a zone change that affects a limited area or a limited number of property owners.*

The proposed zone change affects two property owners, and is thus quasi-judicial.

*17.86.070 Criteria. B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*1. The amendment is consistent with the comprehensive plan;*

Several comprehensive plan policies are applicable. Urban Growth Area policy 7 reads as follows:

*Upon annexation to the City, an area shall be given a plan and zone designation that is consistent with the Comprehensive Plan, the site's environmental characteristics, the uses being proposed and is compatible with the designation of adjacent areas.*

The proposed plan and zone designation is Institutional Reserve (IR). The IR designation is new. It does not conflict with any policies in the comprehensive plan; no comprehensive plan policies restrict creation of new plan/zone designations.

The comprehensive plan's Tolovana Park policies are applicable to this site. The comprehensive plan states that "Tolovana Park is generally considered as the area extending from Tolovana Hill (Arbor Lane) to the southern City limits, and from the Pacific Ocean to the eastern City limits." The plan contains two Tolovana Park policies:

- 1. The Tolovana Park area of Cannon Beach shall remain primarily residential. Generally, the area west of Hemlock shall continue to develop with single-family dwellings on 50' x 100' lots, except where smaller lots already exist.*
- 2. The expansion of motels and commercial uses shall be allowed only within the areas presently designated for commercial or motel use. Such expansion shall be architecturally compatible with surrounding residential uses. No additional land shall be zoned for commercial or motel use.*

The proposed zone change is consistent with these policies because:

- Even though the proposed IR zone is not a residential zone, the area as a whole retains its primarily residential character. The proposal does not change the residential designation or use from any land in the Tolovana Park area.
- The proposal does not alter existing lot sizes, or the overall density or lot size requirements in the Tolovana Park area.
- No motels or commercial uses are allowed in the proposed IR zone.
- Land zoned for commercial or motel use in the Tolovana Park area is unchanged by the proposal. The proposal does not facilitate zone changes for commercial or motel use.

*17.86.070 Criteria. B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*2. The amendment will either:*

*a. Satisfy land and water use needs, or*

- b. Meet transportation demands, or*
- c. Provide community facilities and services;*

The proposed zone change is intended to help provide community facilities and services. A municipal water tank is located on tax lot 4500. Bringing this tax lot into the City under the IR zone removes the necessity of obtaining Clatsop County planning and zoning approval for tank maintenance and upgrades. tax lot 800 is presently vacant, but the City is planning to develop tsunami-resistant essential community facilities and services on the site. The IR zoning will need to be modified before these facilities can be developed on the site. The City has begun work on a site master plan. The IR zoning on this site may need to be modified when the master plan is complete.

*17.86.070 Criteria. B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations;*

Uses allowed outright in the IR zone are:

*A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.*

*B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;*

*C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.*

The IR zone allows a subset of the uses allowed under the current Clatsop County F80 zoning. This is appropriate given the site's geology, slope, flood potential, and other relevant factors:

- The site is not within the 100-year floodplain according to the 2010 FEMA floodplain mapping for Clatsop County.
- A geologic hazard report prepared by Horning Geosciences dated 9/13/2013 for the 55-acre portion of tax lot 800 does not identify any geologic conditions that would be inconsistent with the proposed IR zoning.
- Average slope on the two tax lots are in the twenty percent range, according to USGS topography.
- Nearly all of the subject property is above the limits of tsunami inundation, according to 2013 maps prepared by the Oregon Department of Geology and Mineral Industries (DOGMI).

*17.86.070 Criteria. B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*4. Resource lands, such as wetlands are protected;*

The proposed IR zoning, together with development standards in the City's zoning ordinance and state and federal resource regulatory programs, protects resource lands. Although the National Wetlands Inventory does not map any wetlands on the subject property, an intermittent stream corridor on the northern portion of the site may be subject to regulatory jurisdiction by the Oregon Department of State Lands and/or the US Army Corps of Engineers. Portions of the site have been clear-cut, but significant stands of trees remain. Timber harvesting is regulated by the Oregon Forest Practices Act and its administrative rules. Once annexed, tree removal will be regulated by the City's tree removal ordinance (Municipal Code chapter 17.70). Soil erosion on from construction activities on the site is regulated under erosion control programs administered by the Oregon Department of Environmental Quality. A master



plan for the 55-acre portion of the site (tax lot 800) is being prepared by the City, and will likely recommend additional ways to protect natural resources on the site.

*17.86.070 Criteria. B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:*

*5. The amendment is compatible with the land use development pattern in the vicinity of the request.*

The proposed zone change retains compatibility with the development pattern in the vicinity of the subject property:

- The proposed zoning is compatible with the designation of adjacent lands to the east and south because these managed forest lands are in the County's F80 zone, and the IR zone allows a subset of the uses allowed in that zone.
- Proposed IR zoning is compatible with the residential designation of the Haystack Heights neighborhood to the north because some incompatible uses allowed in the F80 zone would no longer be allowed in the IR zone.
- Proposed zoning is compatible with adjacent uses to the west (Highway 101 and residential and commercial development on the west side of the highway) because potentially incompatible uses allowed in the F80 zone would not be allowed in the IR zone; and because Highway 101 is a substantial buffer between these otherwise adjoining lands.
- Even though the proposed IR zone is not a residential zone, the Tolovana Park area as a whole retains its primarily residential character. The proposal does not change the residential designation or use from any land in the area.
- The proposal does not alter existing lot sizes, or the overall density or lot size requirements in the Tolovana Park area.
- No motels or commercial uses are allowed in the proposed IR zone.

## 2. Statewide Planning Goals

The proposed zone change must be consistent with applicable statewide planning goals. Statewide planning goal 2 is potentially applicable:

*To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City's land use planning framework is well-established, and includes a comprehensive plan and a set of implementing ordinances that define information requirements for all decision-making processes. The proposed IR zone fits into this framework, and relies on existing decision-making procedures.

Statewide planning goal 4, forest lands, is applicable:

*To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

Tax lots 800 and 4500 are presently goal 4 lands, and are zoned as such by Clatsop County. The proposed proposed zone change from Forest-80 to IR does not, by itself, change the goal 4 status of these lands. Since the proposed zone change does not also include a UGB amendment, goal 4 still applies to tax lots

800 and 4500. Proposed City zoning on these tax lots must continue to comply with goal 4. Tax lot 900 is not subject to goal 4 because it is already within the City's UGB.

Statewide planning goal 14, Urbanization, is applicable to the proposed zone change:

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The proposed zone change does not, by itself, change the rural or urban status of any of the proposed annexation land. Tax lots 800 (55 acres) and 4500 (2.5 acres) are presently rural lands, and will remain rural until the City brings them into the Urban Growth Boundary (UGB). Tax lot 900 (3.6 acres) is already within the City's UGB, and is thus categorized as urban land under statewide planning goal 14. The requirements of goal 14 can be addressed when/if the City considers a UGB amendment.

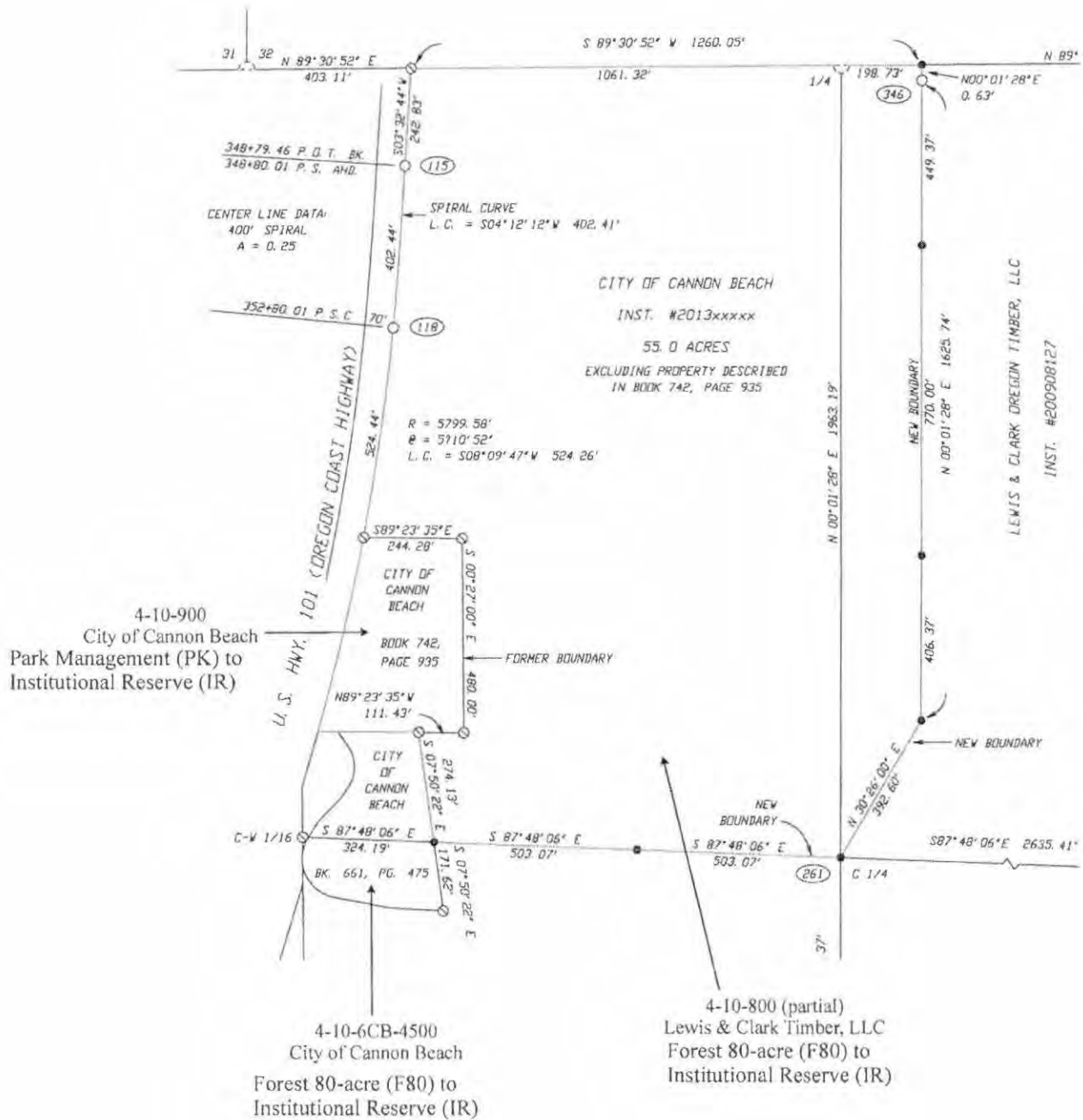
## **CONCLUSION**

The City Council finds the proposal consistent with applicable criteria, and approves the zone map amendment.

## **List of Attachments**

"A" Proposed Zone Map Amendment

Annexation Map for A 13-01





BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE ) ORDINANCE NO. 13-09  
COMPREHENSIVE PLAN/ZONE MAP FOR )  
APPROXIMATELY 61.1 ACRES CONSISTING OF )  
PARCELS A, B, AND C, AS DESCRIBED HEREIN )

The City of Cannon Beach does ordain as follows:

Section 1. Amend the Comprehensive Plan/Zoning Map to change the map designation on parcel A from Forest 80 Acres (F80) to Institutional Reserve (IR);

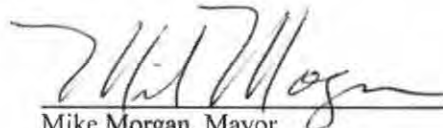
Section 2. Amend the Comprehensive Plan/Zoning Map to change the map designation on parcel B from Forest 80 Acres (F80) to Institutional Reserve (IR);

Section 3. Amend the Comprehensive Plan/Zoning Map to change the map designation on parcel C from Park Management (PK) to Institutional Reserve (IR);

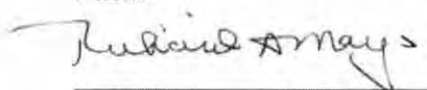
EFFECTIVE DATE: This Ordinance shall become effective upon completion of the purchase of Parcel A by the City of Cannon Beach.

ADOPTED by the Common Council of the City of Cannon Beach this 5th day of November 2013, by the following roll call vote:

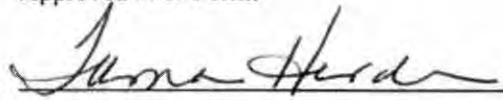
YEAS: Councilors Steidel, Cadwallader, Higgins, Giasson and Mayor Morgan  
NAYS: None  
EXCUSED: None

  
Mike Morgan, Mayor

Attest:

  
Richard A. Mays, City Manager

Approved as to Form:

  
Tamara Herdener, City Attorney

**Parcel "A"**

A 55 are tract of land in Section 6, Township 4 North, Range 10 West, Willamette Meridian, County of Clatsop, State of Oregon, described as follows:

Beginning at a 5/8" rebar on the north boundary of Section 6, T4N, R10W, W.M.; said rebar bears N89°30'52"E 198.73 feet east of the north quarter corner to said Section 6; thence S89°30'52"W along said north boundary 1260.05 feet to the east boundary of U.S. Highway 101, also known as the Oregon Coast Highway; thence S03°32'44"W along said east boundary 242.83 feet to a 3/4" iron rod at right of way station 348+79.46 P.O.T. Back = 348+80.01 P.S. Ahead; thence continuing southerly along said right of way on a spiral curve to the right, the long chord of which bears S04°12'12"W 402.41 feet, an arc distance of 402.44 feet to a 3/4" iron pipe at right of way station 352+80.01 P.S.C.; thence southerly along said right-of-way on a 5799.58 foot radius curve to the right, the long chord of which bears S08°09'47"W 524.26 feet, an arc distance of 524.44 feet to the north boundary of that tract of land conveyed to the City of Cannon Beach by deed recorded in Book 742, Page 935, Deed Records of Clatsop County, Oregon; thence S89°23'35"E 244.28 feet to the northeast corner of said tract of land; thence S00°27'00"E 480.00 feet to the southeast corner of said tract of land; thence N89°23'35"W along the south boundary of said tract of land 111.43 feet to the northeast corner of that tract of land conveyed to the City of Cannon Beach by deed recorded in Book 661, Page 475, said Deed Records; thence S07°50'23"E along the east boundary of said tract conveyed by deed recorded in Book 661, Page 475, a distance of 274.13 feet to a 5/8" rebar on the east-west center line of Section 6; thence S87°48'06"E 1006.14 feet to a 5/8" rebar at the center quarter corner of said Section 6; thence N30°26'00"E 392.60 feet to a 5/8" rebar; thence N00°01'28"E 1626.37 feet to the point of beginning. Containing 55.0 acres, more or less.

**Parcel "B"**

A parcel of land described in Book 661, Page 475, Clatsop County Deed Records, located in the West half of Section 6, Township 4 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon, more particularly described as follows:

Commencing at a point which is 2098.41 feet South and 473.30 feet East of the Southwest section corner of Section 32, Township 5 North, Range 10 West, W.M., said point being in the centerline of that certain private road known as the "Tolovana Mainline Road"; thence N 3°29'40" E 15.00 feet to the True Point of Beginning (TPOB); thence N 86°30'20" W 134.32 feet; thence N 79°02'30" W 137.10 feet; thence 189.28 feet along the arc of a 98.00 foot radius curve to the right through a central angle of 110°39'40", the long chord of which bears N 23°42'40" W 161.20 feet; thence N 31°37'10" E 44.08 feet; thence N 43°42'00" E 78.56 feet; thence N 34°58'00" E 35.91 feet; thence 109.58 feet along the arc of a 90.00 foot radius curve to the left through a central angle of 69°45'40" the long chord of which bears N 00°05'10" E 102.94 feet; thence N 34°47'40" W 43.78 feet to the South line of that parcel conveyed to Clatsop County by deed recorded in Book 324, Page 450, Deed Records of said county; thence South 89°13'12" East along said South line 200.91 feet to a point which bears N 7°40'00" W from the TPOB; thence S 7°40'00" E 445.73 feet to the TPOB, EXCEPT any portion thereof which lies within the right-of-way of the relocated Oregon Coast Highway, containing 2.50 acres more or less.

**Parcel "C"**

A parcel of land described in Book 742, Page 936, Clatsop County Deed Records, lying in the Southeast 1/4 of the Northwest 1/4 of Section 6, Township 4 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon; and being a portion of that property described in that certified deed to the State of

Oregon, by and through its State Highway Commission, recorded in Book 186, Page 147, of Clatsop County Record of Deeds, the said parcel being defined as follows:

Beginning on the West line of said Southeast 1/4 Northwest 1/4 at a point directly East of the South line of Third Street of the plat of Sylvan Park; thence East 50 feet, more or less, to a line which is parallel to and 70 feet Easterly of the centerline of the relocated Oregon Coast Highway and the true point of beginning; thence continue East 350 feet, more or less, to the most Easterly Southeast corner of said property; thence North along the Easterly line of said property 480 feet to the most Easterly Northeast corner of said property; thence West 235 feet, more or less, to said parallel line; thence Southerly, parallel to and 70 feet Easterly of said centerline, to the true point of beginning.



# Cannon Beach City Council

## STAFF REPORT

### CONSIDERATION OF FINDINGS AND ADOPTION OF ORDINANCE 13-10, AMENDING THE ZONING ORDINANCE BY ADOPTING A NEW ZONE, INSTITUTIONAL RESERVE (IR)

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**Agenda Date:** November 5, 2013

**Prepared By:** Mark Barnes, City Planner

## BACKGROUND

This is a request to amend chapter 17 of the municipal code, the City's zoning ordinance. The proposed amendment is a new zone, Institutional Reserve. The proposed zone text is attached as Exhibit A.

This zoning ordinance text amendment is one element of a package of related land use proposals before the City Council. The other elements are:

- Annexation of approximately 61 acres;
- Zone map change, applying the Institutional Reserve zone to the annexation area.

The Planning Commission held a public hearing on the proposed amendment on September 26, 2013, meeting, and recommended approval. The City Council conducted a public hearing on this matter at its October 1, 2013, meeting and tentatively approved the amendment, pending review and adoption of findings.

## FINDINGS

### 1. Zoning Ordinance Requirements

The proposed amendment must comply with requirements of the City's municipal code. Zone changes are addressed in Chapter 17.86. These requirements are excerpted below, followed by proposed findings.

*17.86.050 Classification of actions. A. The following amendment actions are considered legislative under this title: 1. An amendment to the text of the ordinance codified in this title.*

The proposed zoning ordinance text amendment is considered legislative.

*A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:*

- 1. The amendment is consistent with the comprehensive plan;*

Several comprehensive plan policies are applicable to the proposed zoning ordinance text amendment. Urban Growth Area policy 7 reads as follows:



*Upon annexation to the City, an area shall be given a plan and zone designation that is consistent with the Comprehensive Plan, the site's environmental characteristics, the uses being proposed and is compatible with the designation of adjacent areas.*

The proposed Institutional Reserve (IR) zone is intended for a 61-acre annexation site. Uses allowed in the IR zone are intended to be consistent with the annexation site's environmental characteristics and with the designation of adjacent areas. The IR zone allows a subset of the uses allowed under the existing Clatsop County Forest 80 zone in these areas.

*A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:*

*2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.*

The proposed IR zone text allows, as a conditional use, "Maintenance, repair, an seismic upgrade of municipal water storage facilities." An existing city water storage tank on tax lot 4500 is an essential element of the City's ability to satisfy land and water use needs. A separate proposal would place tax lot 4500 in the IR zone.

The proposed IR zone text allows, as a conditional use, "Emergency shelter on land within the Urban Growth Boundary." Tax lot 900, owned by the City, is within the Urban Growth Boundary. A separate proposal would place tax lot 900 in the IR zone. A possible use of tax lot 900 is for a tsunami evacuation shelter.

The proposed IR zone text allows, as outright uses, the following:

*A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.*

*B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;*

*C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.*

The IR zone was crafted to allow the forest uses already allowed in Clatsop County's F-80 zone, and required by the forest lands planning administrative rule (OAR 660-06-025(2)). By itself this does not satisfy land use needs in the City. However, pending the outcome of a master plan for the site, the 55-acre portion of tax lot 800 may be developed for essential public facilities that must be located above the tsunami inundation line. Under this scenario, the site would be placed in the Urban Growth Boundary, and the IR zoning would be replaced with different zoning on all or some portion of the site.

## **2. Statewide Planning Goals**

The proposed zoning ordinance text amendment must be consistent with applicable statewide planning goals. Statewide planning goal 2 is potentially applicable:

*To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City's land use planning framework is well-established, and includes a comprehensive plan and a set of implementing ordinances that define information requirements for all decision-making processes. The proposed IR zone text fits into this framework, and relies on existing decision-making procedures.

Statewide planning goal 4, forest lands, is applicable:

*To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

Tax lots 800 and 4500 are presently goal 4 lands, and are zoned as such by Clatsop County. The proposed zone change from Forest-80 to IR does not, by itself, change the goal 4 status of these lands. Since the proposed zone change does not also include a UGB amendment, goal 4 still applies to tax lots 800 and 4500. Proposed City zoning on these tax lots must continue to comply with goal 4. Because of this, the IR zone is crafted to comply with goal 4. The goal 4 administrative rule, OAR 660-06-025(2), specifies the uses that must be allowed in a fully-compliant forest zone. These are the outright uses listed in the proposed IR zone text.

## **CONCLUSION**

The City Council finds the proposal consistent with applicable criteria, and approves the amendment.

## **List of Attachments**

“A” Draft Ordinance 13-10

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING CHAPTER 17) ORDINANCE NO. 13-10  
OF THE MUNICIPAL CODE, ADDING A NEW )  
ZONE, INSTITUTIONAL RESERVE )

The City of Cannon Beach does ordain as follows:

Section 1. Amend theMunicipal Code by adding the following text:

Chapter 17.37 INSTITUTIONAL RESERVE (IR) ZONE

17.37.010 Purpose.

The purpose of the Institutional Reserve zone is to reserve areas for potential future urban uses.

17.37.020 Uses permitted outright.

The following uses are permitted outright in the Institutional Reserve zone:

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
- B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;
- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

17.37.030 Conditional uses permitted.

The following conditional uses may be permitted in the Institutional Reserve zone:

- A. Trails, when authorized in accordance with the provisions of Chapter 17.80.
- B. Emergency shelter on land within the Urban Growth Boundary.
- C. Maintenance, repair, an seismic upgrade of municipal water storage facilities.

17.37.040 Standards.


The following standards shall apply in the Institutional Reserve zone:

- A. Forest operations are subject to the requirements of a valid plan approved by the Oregon Department of Forestry.
- B. "Auxiliary", as it is used in 17.xx.020.B and C, means, a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

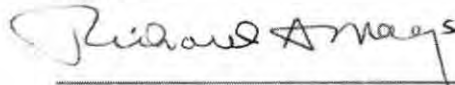


ADOPTED by the Common Council of the City of Cannon Beach this 5th day of November 2013, by the following roll call vote:

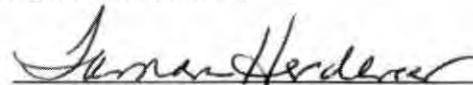
YEAS:	Councilors Steidel, Cadwallader, Higgins, Giasson and Mayor Morgan
NAYS:	None
EXCUSED:	None

  
Mike Morgan, Mayor

Attest:

  
Richard A. Mays, City Manager

Approved as to Form:

  
Tamara Herdener, City Attorney