



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



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 003-13

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.: 003-13 (19979)

[17700]

Received: 12/6/2013

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.: **CP 13-02**Date of adoption: **12/03/13** Date sent: **12/04/13**

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): **08/19/13**☐ 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:

Background Report, An Integrated Approach to Sand Management, Appendix D: Presidential Streets Management Unit, p.14

Goal 17: Coastal Shorelands and Goal 18: Beaches and Dunes

For a change to a comprehensive plan map:

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

| | | | |
|-------------|----|--------|---|
| Change from | to | acres. | <input type="checkbox"/> A goal exception was required for this change. |
| Change from | to | acres. | <input type="checkbox"/> A goal exception was required for this change. |
| Change from | to | acres. | <input type="checkbox"/> A goal exception was required for this change. |
| Change from | to | acres. | <input type="checkbox"/> A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address): **5-10-30AD-3501**☒ 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: **Background Report, An Integrated Approach to Sand Management, Appendix D: Presidential Streets Management Unit, p.14**

For a change to a zoning map:

Identify the former and new base zone designations and the area affected: **N/A**

Change from to . Acres:

Change from to . Acres:

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): **5-10-30AD-3501**

List affected state or federal agencies, local governments and special districts: **Oregon State Parks Department**

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.

FINDINGS OF FACT, CP 13-02, A REQUEST BY SHOAIB TAREEN AND CATHERINE FILGAS
FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN BACKGROUND REPORT
AMENDMENT, APPENDIX D, PRESIDENTIAL STREETS MANAGEMENT UNIT

BACKGROUND

This request is for an amendment to the City's Comprehensive Plan. An element of the Comprehensive Plan is a background report titled "Cannon Beach: An Integrated Approach to Sand Management." Part of this report is "Appendix D: Presidential Streets Management Unit (Kramer Point to Harrison Street)". The report further divides the Kramer Point to Harrison Street unit into three subareas:

I: Harrison to Jackson Streets

II: Jackson Street to the the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street

III: North line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street to Kramer Point

Owners of property at 807 South Ocean Avenue, Shoaib Tareen and Catherine Filgas, propose that the City amend Appendix D, Part II: Presidential Street Sand Management Strategy, to change the boundary between area I and area II. The Tareen/Filgas property, tax lot 3501, map 51030AD, is immediately south of West Jackson Street, which forms the current boundary between area I and area II. The proposed amendment shifts this boundary south, moving the Tareen/Filgas property from area I into area II. This allows the applicants to take advantage of the existing dune grading strategy in area II.

The proposed amendment is the first step in permitting foredune grading for view enhancement on this property. Dune grading is a conditional use, and may only be permitted according to the grading strategy described in the plan for the applicable management units and subarea. In the case of the Tareen/Filgas property, this will be the area II management unit.

A report from Horning Geosciences, dated June 25, 2013, supports the proposal; a copy is attached. A map on page 2 of the Horning report shows the existing and proposed boundaries between sand management areas in the Presidential Streets Sand Management Unit.

The Planning Commission conducted a public hearing on this matter at its September 26, 2013. meeting. Tom Horning testified on behalf of the applicants; there was no other testimony. The Planning Commission recommended denial of the request by a 4-2 vote. The City Council held a hearing on this proposal on November 5, 2013, and heard testimony from Tom Horning, Shoaib Tareen, Bruce Francis, and Pat Hegrenes. The hearing was closed, and the Council voted to tentatively approve the request by a vote of 5-0.

PROPOSED AMENDMENT

The proposed comprehensive plan text amendment is on page 14 of "Appendix D: Presidential Streets Management Unit", which is appendix to the Comprehensive Plan background report "Cannon Beach: An Integrated Approach To Sand Management". The bold-face text is the amendment as proposed by the applicant:

"The recognition of individual areas within the overall management unit constitutes the framework of the proposed management strategy. Area I extends from Jackson Street to Harrison Street, **with the exception of Tax Lot 3501, Map 3501, which is part of Area II**; Area II from



Jackson Street to the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street; and Area III from the north line of Tax Lot 700 & 15135, Map 51030AA to Kramer Point. Each area is distinguished by a combination of physical and social settings.”

The amendment also changes table 3 of the background report to reflect these revised boundaries:

| Table 3 headers | Revised descriptions |
|--|---|
| Area I: Jackson - Harrison Street | Area I: Harrison Street to about 50 feet south of Jackson Street |
| Area II: Jackson Street to the the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street | Area II: about 50 feet south of Jackson Street to the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street |
| Area III: North line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street to Kramer Point | (No change) |

ANALYSIS/INFORMATION

Applicable criteria for this Comprehensive Plan amendment are from the statewide planning goals and from the City’s Comprehensive Plan.

A. Statewide planning goal 18. Implementation requirement 7 of goal 18 establishes standards for grading and sand movement necessary to maintain views and prevent sand inundation:

7. Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

(a) Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;

(b) Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100 year flood elevation;

(c) Identify and set priorities for low and narrow dune areas which need to be built up;

(d) Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and

(e) Prohibit removal of sand from the beach-foredune system.

Cannon Beach’s current dune management plan, “An Integrated Approach to Sand Management” is part of the City’s Comprehensive Plan, and is compliant with the goal 18 requirements excerpted above. These

requirements are repeated in comprehensive plan policy 6, excerpted below. The proposed amendment does not make the dune management plan non-compliant.

B. Sand Dune Construction Policy 6 reads from the City's Comprehensive Plan, in part, as follows:

Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development or is within an acknowledged urban growth boundary and only as part of an overall plan for managing foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

- a. Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;*
- b. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100 year flood elevation;*
- c. Identify and set priorities for low and narrow dune areas which need to be built up;*
- d. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities, and*
- e. Prohibit removal of sand from the beach-foredune system. Before construction can begin, the foredune grading plan must be adopted as an amendment to the Comprehensive Plan.*

The City has an overall plan for managing foredune grading, "Cannon Beach: An Integrated Approach to Sand Management." The proposed amendment adjusts the boundary between two subareas in the Presidential Streets Management Unit, shifting one property, tax lot 3501, map 51030AD, from area I to area II. Information in the report from Horning Geosciences, attached, demonstrates that this amendment does not conflict with policy 6.

C. Appendix D, Part II: Presidential Street Sand Management Strategy, p14, last paragraph, reads, in part:

The recognition of individual areas within the overall management unit constitutes the framework of the proposed management strategy. Area I extends from Jackson Street to Harrison Street; Area II from Washington Street to Jackson Street; Area III from Kramer Point to Washington Street. Each area is distinguished by a combination of physical and social settings.

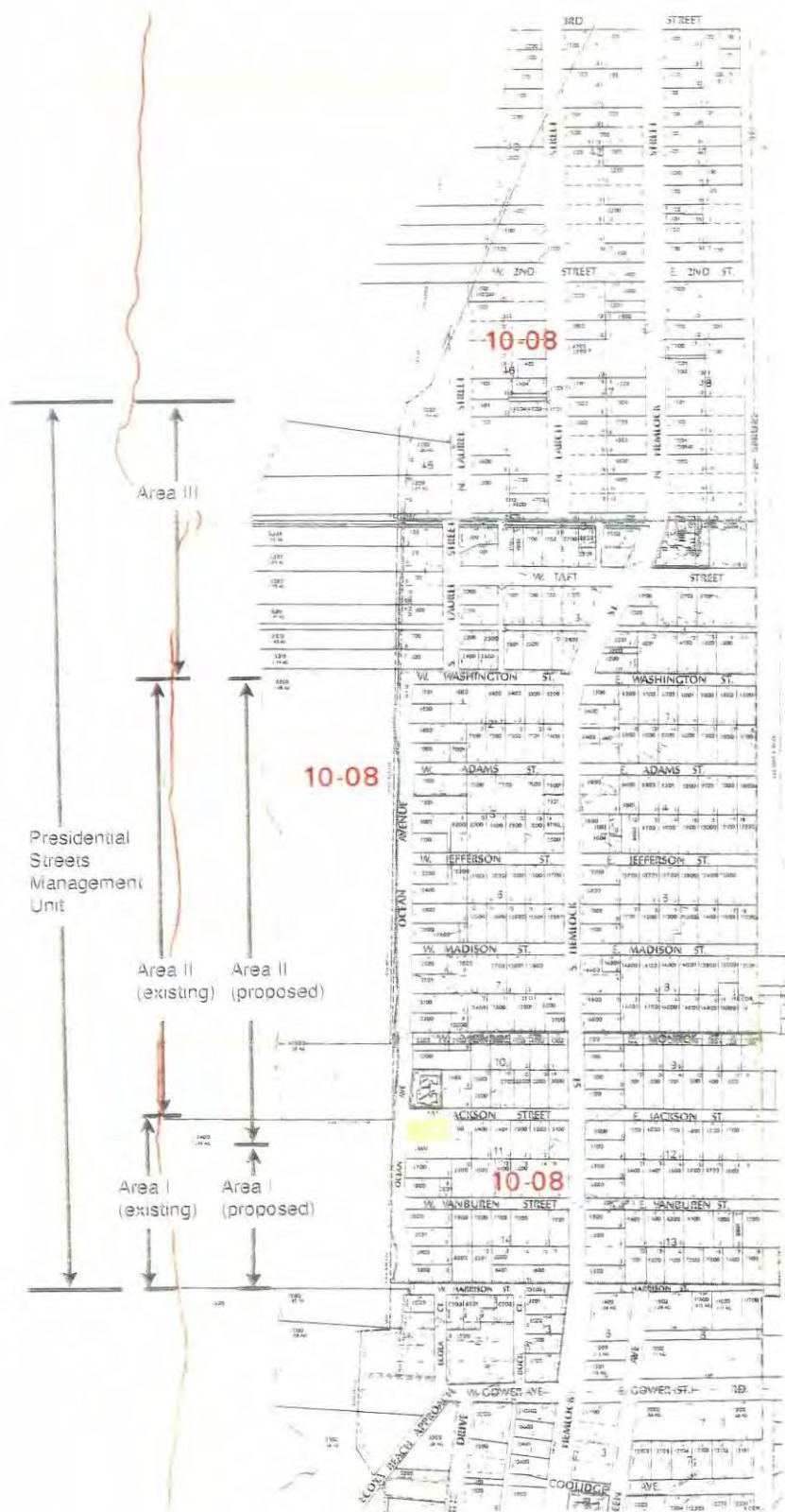
The management prescriptions, as described in Part II and Table 3, differ with respect to foredune grading and vegetative stabilization. Management measures for each of the three areas are summarized in the following table.

| area I | area II | area III |
|-----------------------------|--|--|
| No sand removal | No sand removal | No sand removal |
| No foredune grading | Foredune grading: primary crest elevation ~30 feet NGVD29 @ ~60 feet west of Ocean Av for fully-developed profile; primary crest elevation ~30 feet NGVD29 @ ~20 feet west of Ocean Ave for drainage-modified profile; secondary crest elevation ~25 feet NGVD29 @ ~125 feet west of Ocean Ave. | Foredune grading: primary crest elevation ~30 feet NGVD29 @ ~75 feet west across Laurel St. secondary crest elevation ~25 feet NGVD29 @ ~150 feet west across Laurel St. |
| No vegetative stabilization | Vegetative stabilization limited to within the Ocean Ave right-of-way - 60-90% cover. | Vegetative stabilization extending from the primary crest to the toe of the secondary crest - 30-90% cover. |
| Monitoring and maintenance | Monitoring and maintenance | Monitoring and maintenance. |

The proposed amendment adjusts the boundary between two subareas in the Presidential Streets Management Unit, shifting the subject property from area I to area II. The principal difference between the two areas is the treatment of foredune grading. Information in the report from Horning Geosciences, attached, supports the proposed boundary shift.

CONCLUSION

The request meets relevant criteria. It is consistent with the applicable statewide planning goals and with applicable policies from the City's comprehensive plan. The differences in dune morphology north and south of Jackson Street, in the vicinity of the applicant's property, are not substantial enough to deny the request. The Horning Geosciences report is more recent than the information contained in the background report, and more accurately represents current dune conditions.



BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE)
COMPREHENSIVE PLAN, BACKGROUND)
REPORT, APPENDIX D, PRESIDENTIAL)
STREET MANAGEMENT UNIT)
ORDINANCE NO. 13-13

The City of Cannon Beach does ordain as follows:

Section 1. Amend the Comprehensive Plan, Background Report, Appendix D: Presidential Street Management Unit (Kramer Point to Harrison Street); Part II: Presidential Streets Sand Management Strategy, Page 14, last paragraph to read as follows:

The recognition of individual areas within the overall management unit constitutes the framework of the proposed management strategy. Area I extends from Jackson Street to Harrison Street, **with the exception of Tax Lot 3501, Map 3501, which is part of Area II**; Area II from Jackson Street to the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street; and Area III from the north line of Tax Lot 700 & 15135, Map 51030AA to Kramer Point. Each area is distinguished by a combination of physical and social settings.

Section 2. Amend the Comprehensive Plan, Background Report, Appendix D: Presidential Street Management Unit (Kramer Point to Harrison Street); Part II: Presidential Streets Sand Management Strategy, Table 3 headers to read as follows:

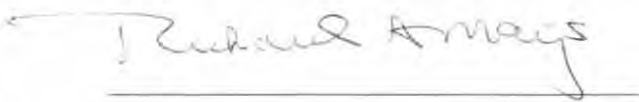
| Table 3 headers | Revised descriptions |
|--|---|
| Area I: Jackson - Harrison Street | Area I: Harrison Street to about 50 feet south of Jackson Street |
| Area II: Jackson Street to the the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street | Area II: about 50 feet south of Jackson Street to the north line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street |
| Area III: North line of Tax Lot 700 & 15135, Map 51030AA, 100 feet north of Washington Street to Kramer Point | (No change) |

ADOPTED by the Common Council of the City of Cannon Beach this 3rd day of December 2013, by the following roll call vote:

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


Sam Steidel, Council President

Attest:


Richard A. Mays, City Manager

Approved as to Form:


Tammy Herdener, Attorney

CITY OF CANNON BEACH



P.O. Box 368 • Cannon Beach OR 97110



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ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL STREET NE, SUITE 150
SALEM, OR 97301-2540

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