



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

03/27/2009

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

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Canby Plan Amendment
DLCD File Number 001-09

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: Friday, April 10, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Melissa Hardy, City of Canby
Gloria Gardiner, DLCD Urban Planning Specialist

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PROF 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

DEPT OF

MAR 23 2009

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Canby, OR**

Local file number: **TA-08-05**

Date of Adoption: **3/18/2009**

Date Mailed: **3/20/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/12/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendment to the Canby Land Development and Planning Ordinance (Title 16) for the purpose of expanding an existing off-street parking exemption area to cover an additional two city blocks in Canby's C-1 (Downtown Commercial) Zoning District. In this exemption area, no off-street vehicle parking is required for outright permitted uses. Conditional uses are not exempt from the off-street vehicle parking requirements.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: -

to: -

Zone Map Changed from: -

to: -

Location: -

Acres Involved: **3**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-09 (17316)[15448]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: **Melissa Hardy**

Phone: **(503) 266-7001** Extension: **262**

Address: **P.O. Box 930**

Fax Number: **503-266-1574**

City: **Canby**

Zip: **97013**

E-mail Address: **hardym@ci.canby.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 1304

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 16.10 FOR THE PURPOSE OF EXPANDING THE "NO OFF-STREET PARKING" AREA DOWNTOWN.

WHEREAS, the City of Canby initiated an application (application no. TA-08-05) for an amendment to the text of Title 16 for the purpose of expanding the "no off-street parking" area in downtown Canby; and

WHEREAS, the Planning Commission held a public hearing concerning the text amendment application on January 12, 2009, and based on their determination that the proposed amendment met all required approval criteria, voted 6-0 to forward a recommendation of approval to City Council; and

WHEREAS, the City Council received the text amendment application and Planning Commission recommendation, and held a second public hearing on March 04, 2009; and

WHEREAS, following close of public hearing, the City Council determined that expanding the "no off-street parking" area to cover an additional two blocks between N. Fir Street, N. Elm Street, N.W. First Avenue, and N.W. Third Avenue, complies with the Comprehensive Plan of the city, and with the plans and policies of the county, state, and local districts, and will preserve functions and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and


WHEREAS, the City Council voted March 4, 2009 to approve Text Amendment No. TA 08-05 as presented, based on the findings in the Council staff report, and directed staff to present Council with an ordinance for adoption; and

WHEREAS, this ordinance is for the purpose of codifying Text Amendment No. TA 08-05 into law; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Title 16 of the Canby Municipal Code, otherwise known as the "Land Development and Planning Ordinance of the City", is amended as detailed in Exhibit A.

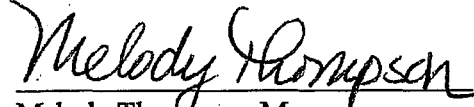
SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, March 04, 2009, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, March 18, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.


Kimberly Scheafer, CMC
City Recorder Pro-Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 18th of March, 2009, by the following vote:

YEAS 6

NAYS 0


Melody Thompson, Mayor

ATTEST:

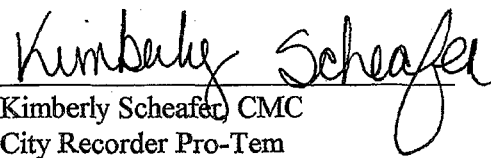

Kimberly Scheafer, CMC
City Recorder Pro-Tem

EXHIBIT "A" to ORDINANCE 1304

AMENDMENT TO TEXT OF TITLE 16 (TA-08-05)

Deleted text is illustrated below in ~~strikeout font~~, added text is illustrated in red underlined font.

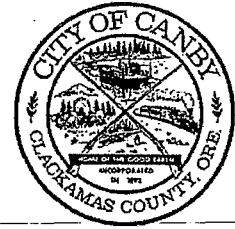
CMC Section 16.10.010 is amended as follows...

16.10.010 Off-street parking required – exceptions.

A. At the time of establishment of a new structure or use, change in use, or change in use of an existing structure, within any planning district of the city, off-street parking spaces and off-street loading berths shall be as provided in this and following sections, unless greater requirements are otherwise established by the conditional use permit or the site and design review process, based upon clear and objective findings that a greater number of spaces are necessary at that location for protection of public health, safety and welfare. A lesser number of spaces may be permitted by the Planning Commission based on clear and objective findings that a lesser number of parking spaces will be sufficient to carry out the objective of this section.

B. No off-street parking shall be required for any use permitted outright within the C-1 zone in the rectangular area bounded by N. Ivy Street on the east, NW First Avenue on the south, ~~N. Fir Street~~ N. Elm Street on the west, and NW Third Avenue on the north.

C. At the time of enlargement of an existing structure or use, the provisions of this section shall apply to the enlarged structure or use only.



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *Melissa Hardy, Associate Planner*
THROUGH: *Mark C. Adcock, City Administrator*
DATE: *March 04, 2009*
RE: *AMENDMENT TO TEXT OF TITLE; Application No. TA 08-05*
A Public Hearing to consider amending Section 16.10.010.B of the Land Development & Planning Title (TITLE 16) of the Canby Municipal Code, in order to expand the "No off-street parking" area downtown.

Summary

TA 08-05 is a City-initiated application to amend Section 16.10.010.B of Title 16 in the Canby Municipal Code (CMC), for the purpose of expanding the "No off-street parking" area downtown.

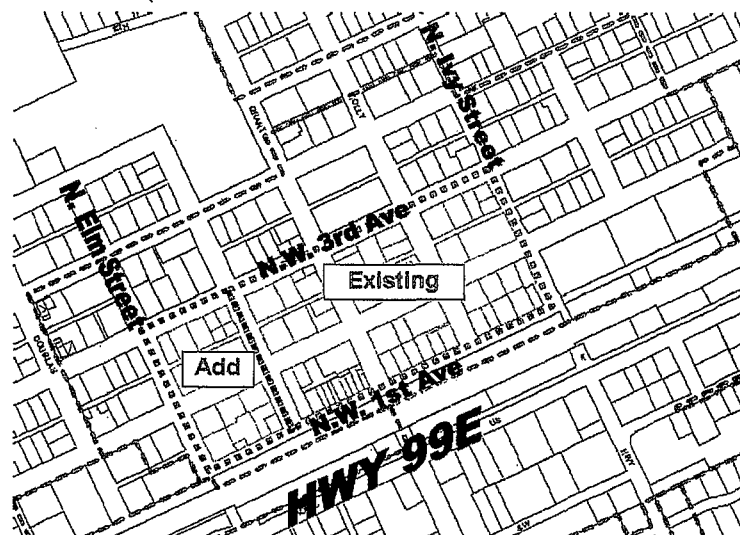
Recommendation

Staff recommends that the City Council approve TA 08-05.

Recommended Motion: *"I move that the City Council approve Text Amendment No. TA 08-05 as presented, based on the findings in the staff report, and direct staff to present Council with an ordinance for adoption."*

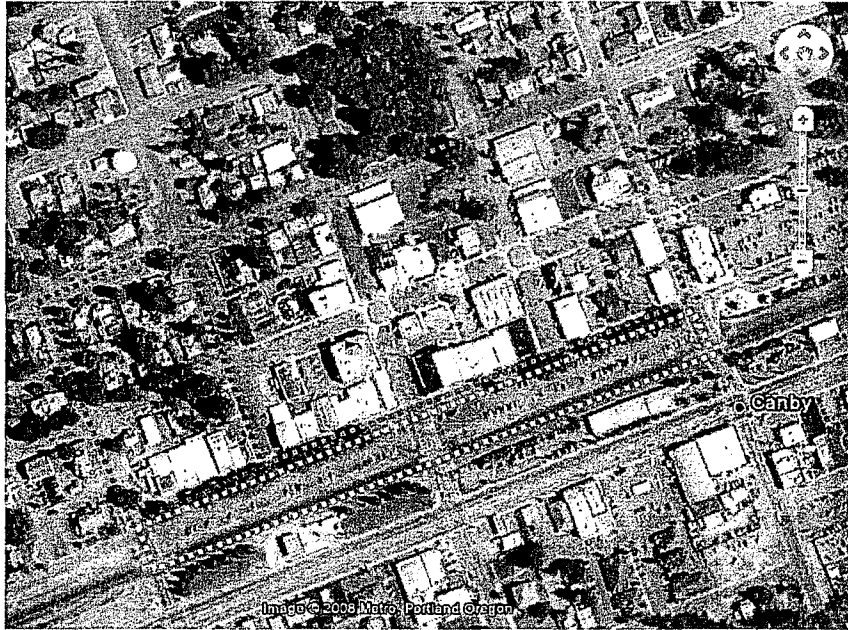
Proposed Amendment

Section 16.10.010.B of the Canby Municipal Code says that no off-street parking shall be required for any use permitted outright within the C-1 zone in the rectangular area bounded by N. Ivy Street on the east, NW First Avenue on the south, N. Fir Street on the west, and NW Third Avenue on the north (the area outlined in dotted red in the illustration below).



This code section was added to the code in 1990 (Ord.No. 848) in order to encourage development in Canby's core downtown area. The rationale for exempting permitted uses in this area from off-street parking requirements is its close proximity to the graveled area within the Union Pacific railroad right-of-way that the City leases for public vehicle parking (outlined in dotted yellow in the aerial below).

The proposal is to amend Section 16.10.010.B in order to expand the downtown "No off-street parking" area to encompass the two additional city blocks between N.W. 1st Avenue, N. Elm Street, N.W. 3rd Avenue, and N. Fir Street (the area of proposed expansion is outlined in dotted blue in the illustration on the previous page, and in the aerial below).



The aerial illustration above shows that the parking area leased by the City extends four blocks between N. Ivy Street and N. Elm Street. Therefore, because the original "No off-street parking" area created in 1990 was based on the area's proximity to the leased parking area, it follows logic that the "No off-street parking" area should be extended one additional block to the west, so that it coincides with the length and location of the leased parking area, and encompasses the entire eight blocks between N. Ivy Street and N. Elm Street, and between N.W. 1st Avenue and N.W. 3rd Avenue. The proposed code amendment does not change the existing requirement that conditional uses are still subject to the off-street vehicle parking requirements.

The proposed code amendment is attached (see Attachment 1).

Approval Criteria

A Title 16 text amendment is a legislative land use amendment. In judging whether or not Title 16 should be amended, the Planning Commission and City Council must consider the following approval criteria:

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development; and

2. A public need for the change; and
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made; and
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community; and
5. Statewide planning goals.

Background

The Planning Commission initiated this code amendment application at their November 24, 2008, meeting, after hearing from the Commander at the American Legion Post that the American Legion wanted to be able to eliminate one or more of their off-street parking spaces in order to install a covered shelter or picnic table out back, but the City's code requirement for off-street vehicle parking spaces was preventing them from doing so.

City staff held a neighborhood meeting on December 18, 2008, in order to let property owners in the area know about the proposed code amendment, and to gather comments and hear any issues regarding the proposal. Notice of the meeting was mailed out to all of the property owners in and around the downtown off-street parking exemption area. No one attended the meeting, and City Staff did not receive any comments concerning the proposal.

Planning Commission held a public hearing concerning the proposed text amendment on January 12, 2009. Notice of the public hearing was published in the January 07, 2009, Canby Herald. Staff presented a staff report to the Planning Commission. No public testimony was received for or against the proposed amendment. The Planning Commission closed the public hearing on January 12, 2009, and voted 6-0 to forward a recommendation of approval to City Council based on the following findings.

Findings

1. The amendment complies with the Comprehensive Plan of the city, and with the plans and policies of the county, state, and local districts; and will preserve functions and local aspects of land conservation and development.
2. There is a public need for the change.
3. The amendment will serve the public need better than any other change which might be expected to be made.
4. The amendment will preserve and protect the health, safety, and general welfare of the residents in the community.
5. The amendment complies with the Statewide Planning Goals.

Alternatives

1. If the City Council wants to make any changes to the proposed amendment, the Council may approve a motion to hold the public hearing open to a date certain, and direct staff to return to Council with changes as requested.

2. If the City Council wants to deny TA 08-05, the Council may approve a motion to direct staff to prepare appropriate findings to deny TA 08-05, and to return to Council with those findings of denial.

Attachments

1. Proposed Text Amendment

ATTACHMENT 1

Proposed Text Amendment

Deleted text is illustrated in ~~strikeout font~~, added text is illustrated in red underlined font.

CMC Section 16.10.010 is amended as follows...

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City of Carby
P. O. Box 930
Carby, OR 97013

D. L. C. D.

Attn: Plan Amendment Specialist

635 Capitol Street N.E.

Suite 150

Salem, OR 97301-2540

