



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

April 11, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cannon Beach Plan Amendment
DLCD File Number 003-05



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: April 27, 2006

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative
Rainmar Bartl, City of Cannon Beach

<paa> y

DLCD NOTICE OF ADOPTION

APR 07 2006

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

**LAND CONSERVATION
AND DEVELOPMENT**

(See reverse side for submittal requirements)

Jurisdiction: City of Cannon Beach Local File No.: ZO 05-03
(If no number, use none)

Date of Adoption: 04/04/06 Date Mailed: 04/06/06
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 11/15/05

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: _____

(Please Specify Type of Action)

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

Where the City Council determines to "waive" existing land use regulations to satisfy a valid Measure 37 claim, these amendments will make uses permitted pursuant to that waiver outright uses in the zone in which they are located.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from : NA to _____

Zone Map Changed from: NA to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: None

Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 003-05
(14814)

Did the Department of Land Conservation and Development **receive** a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: None

Local Contact: Rainmar Bartl, Planner Area Code + Phone Number: (503) 436-1581 x 133

Address: PO Box 368 City: Cannon Beach

Zip Code+4: 97110-0368 Email Address: bartl@ci.cannon-beach.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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

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 ANotice of Adoption is sent to DLCD.

6. In addition to sending the ANotice 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 copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING)
MUNICIPAL CODE, TITLE 17, ZONING,)
ESTABLISHING REGULATIONS AND)
STANDARDS REGARDING CLAIMS FOR)
COMPENSATION UNDER ORS 197.352)

ORDINANCE NO. 06-03

THE COMMON COUNCIL OF THE CITY OF CANNON BEACH ORDAINS AS FOLLOWS:

That the Cannon Beach Municipal Code, Title 17, is hereby amended as follows:

Section 1: Amend Section 17.08.020, Residential Very Low Density (RVL) Zone, Uses permitted outright, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 2: Amend Section 17.08.040, Residential Very Low Density (RVL) Zone, Standards, by adding a new subsection L to read as follows:

L. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 3: Amend Section 17.10.020, Residential Lower Density (RL) Zone, Uses permitted outright, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 4: Amend Section 17.10.040, Residential Lower Density (RL) Zone, Standards, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 5: Amend Section 17.12.020, Residential Moderate Density (R1) Zone, Uses permitted outright, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 6: Amend Section 17.12.040, Residential Moderate Density (R1) Zone, Standards, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 7: Amend Section 17.14.020, Residential Medium Density (R2) Zone, Uses permitted outright, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. A specific individual use or structures modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 8: Amend Section 17.14.040, Residential Medium Density (R2) Zone, Standards, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 9: Amend Section 17.16.020, Residential High Density (R3) Zone, Uses permitted outright, by adding a new subsection M to read as follows:

M. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 10: Amend Section 17.16.040, Residential High Density (R3) Zone, Standards, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A- K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 11: Amend Section 17.18.020, Residential Alternative/Manufactured Dwelling (RAM) Zone, Uses permitted outright, by adding a new subsection K to read as follows:

K. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 12: Amend Section 17.18.040, Residential Alternative/Manufactured Dwelling (RAM) Zone, Standards, by adding a new subsection K to read as follows:

K. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 13: Amend Section 17.20.020, Residential Motel (RM) Zone, Uses permitted outright, by adding a new subsection M to read as follows:

M. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 14: Amend Section 17.20.040, Residential Motel (RM) Zone, Standards, by adding a new subsection K to read as follows:

K. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 15: Amend Section 17.22.020, Limited Commercial (C1) Zone, Uses permitted outright, by adding a new subsection Q to read as follows:

Q. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 16: Amend Section 17.22.040, Limited Commercial (C1) Zone, Standards, by adding a new subsection L to read as follows:

L. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 17: Amend Section 17.24.020, General Commercial (C2) Zone, Uses permitted outright, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 18: Amend Section 17.24.050, General Commercial (C2) Zone, Standards, by adding a new subsection I to read as follows:

I. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 19: Amend Section 17.26.020, Manufactured Dwelling and Recreational Vehicle Park (MP) Zone, Uses permitted outright, by adding a new subsection G to read as follows:

G. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 20: Amend Section 17.26.040, Manufactured Dwelling and Recreational Vehicle Park (MP) Zone, Standards, by adding a new subsection J to read as follows:

J. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 21: Amend Section 17.28.020, Open Space/Recreation (OSR) Zone, Uses permitted outright, by adding a new subsection C to read as follows:

C. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 22: Amend Section 17.28.040, Open Space/Recreation (OSR) Zone, Standards, by adding a new subsection C to read as follows:

C. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 23: Amend Section 17.30.020, Estuary (E) Zone, Uses permitted outright, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 24: Amend Section 17.30.040, Estuary (E) Zone, Additional development standards – Procedural requirements, by adding a new subsection H to read as follows:

H. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 25: Amend Section 17.34.020, Open Space (OS) Zone, Uses permitted outright, to read as follows:

A specific individual use or structures approved pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

Section 26: Amend Chapter 17.34.040, Open Space (OS) Zone, by adding a new Section, 17.34.040.A, Standards to read as follows:

A. Claims for Compensation Under ORS 197.352. The standards of Section 17.08.040 A-K Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the City's final action modifying, removing or not applying the City's land use regulation(s) on a demand for compensation under ORS 197.352.

Section 27: Amend Chapter 17.90, General Requirements and Regulations by adding a new section, Section 17.90.180, Claims for Compensation Under ORS 197.352, to read as follows:

Section 17.90.180 Claims for Compensation Under ORS 197.352

For purposes of this section, "final action" means an order approved by the City Council modifying, removing or not applying the City's land use regulation(s) in response to a demand for compensation under ORS 197.352.

A. The following standards must be met in order for a use to be considered a use permitted outright in the zone in which it is located:

1. If the demand does not involve a land division, the use or structures described in the development agreement created as part of the City's final action have been constructed in conformance with the standards and conditions of the development agreement by the person who obtained the right(s) to use the property under the City's final action; or
2. If the demand involves a land division, the lots are shown on a final plat recorded in conformance with the development agreement created as part of the City's final action and any state laws or city ordinances that continue to apply; or
3. If the use described in the development agreement created as part of the City's final action does not require construction and is not a land division, the property continues to be owned by the person who obtained the right(s) to use the property under the City's final action;
4. The State of Oregon has made a final determination to modify, remove or not apply the requirements of any applicable State laws or regulations that restrict the intended use of the property, thus permitting the use of the property as provided for in the City's final action.

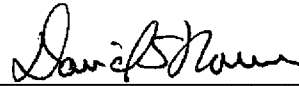
Section 28: Amend Chapter 17.82, Nonconforming Lots, Uses and Structures – Pre-Exiting Uses, by adding a new section, Section 17.82.070 Nonconforming Uses Pursuant to a Claim for Compensation Under ORS 197.352, to read as follows:

Section 17.82.070 Nonconforming Uses Pursuant to a Claims for Compensation Under ORS 197.352

Uses or structures, including lots and parcels created by land divisions, that are approved as part of the City's final action modifying, removing or not applying the City's land use regulation(s) in response to a demand for compensation under ORS 197.352, but where the City's final action does not include a development agreement, shall be considered nonconforming and are subject to the requirements of Section 17.82.020 and Section 17.82.030.B through D.

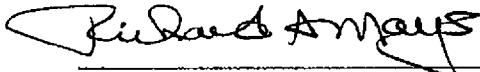
ADOPTED by the Common Council of the City of Cannon Beach this 4th day of April, 2006 by the following roll call vote:

YEAS: Councilors: Dooley, Swigart, Williams and Raskin; Mayor Rouse
NAYS: None
EXCUSED: None



Dave Rouse, Mayor

Attest:



Richard A. Mays, City Manager

Approved as to Form:



William Canessa, City Attorney

FINDINGS OF FACT
ZO 05-03, CITY OF CANNON BEACH ZONING ORDINANCE TEXT AMENDMENT –
ESTABLISHING REGULATIONS AND STANDARDS REGARDING CLAIMS FOR
COMPENSATION UNDER ORS 197.352

BACKGROUND

The City is proposing to amend the text of the Zoning Ordinance so that each of the City's zoning districts contains language that recognizes approved Measure 37 claims as outright uses in that zone, subject to certain conditions.

The Planning Commission held a public hearing on the proposed amendments at its January 26, 2006, meeting. In response to comments received at the Planning Commission hearing, the proposed amendment has been modified as follows:

1. The "Uses permitted outright" section in the applicable zones was modified to clarify that it is a specific Measure 37 use that is permitted outright, not a general class of uses.
2. A new section has been added referencing the need to obtain a waiver from any State requirements.
3. A distinction is made between the final City action on Measure 37 claims that include a development agreement and those where the final City action does not include a development agreement.

The Council held a public hearing on the proposed amendments on March 7, 2006, and discussed the proposed amendments at a work session on March 14, 2006.

ANALYSIS/INFORMATION

CRITERIA - ZONING CODE

A. Section 17.86.070 Criteria provides that "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."

Findings: There are no comprehensive plan policies which address the types of issues raised by Oregon Revised Statutes, Chapter 197.352, also known as Ballot Measure 37, passed November 2, 2004.

Conclusion: The proposed amendments meet this criterion.

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

Finding: The proposed amendments will recognize certain uses and actions taken pursuant to a valid Claim for Compensation under ORS 197.352 as outright uses in the zone in which they are located, subject to certain conditions, including those that may be specified in the City's final action on a demand for compensation and contained in a development agreement. Recognizing such uses and actions as permitted outright uses in the zone in which they are located will have no impact on the ability of the City to meet its land and water use needs.



Conclusion: The proposed amendments meet this criterion.

CONCLUSION

The application meets the applicable criteria.

ACTION

That the proposed amendments be adopted.

cc\m37\textamend\cbzo06-02fin