



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

04/13/2012

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 003-11

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: Monday, April 30, 2012

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: Rainmar Bartl, City of Cannon Beach
Angela Lazarean, DLCD Urban Planner
Matt Spangler, DLCD Regional Representative

<paa> YA

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

Hand delivered email mailed

DEPT OF

APR 10 2012

LAND CONSERVATION
AND DEVELOPMENTJurisdiction: **City of Cannon Beach**Local file number: **ZC 11-01**Date of Adoption: **4/3/2012**Date Mailed: **4/9/2012**Date original Notice of Proposed Amendment was mailed to DLCD: **11/22/2011** 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".

Amend the Comprehensive Plan Map and Zoning Map designation of Tax Lot 4001, Map 51020CB from the Estuary (E) Zone designation in its entirety; to change the majority of the upland area to Park (PK) Zone, an 810 square foot portion to be changed to Limited Commercial (C1) Zone and the defined estuary areas to remain as the E Zone designation.

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".

SAMEPlan Map Changed from: **Estuary (E) Zone**to: **E, PK and C1 Zones**Zone Map Changed from: **Estuary (E) Zone**to: **E, PK and C1 Zones**Location: **S. Side of Ecola Creek at Fir Street Bridge**Acres Involved: **.7 Acres**Specify Density: Previous: **n/a**New: **n/a**Applicable Statewide Planning Goals: **Goal #16**Was and Exception Adopted? YES NO DLCD File No.: 003-11 (19063) [16999]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing?	<input checked="" type="checkbox"/> Yes	No
If no, do the statewide planning goals apply?	Yes	No
If no, did Emergency Circumstances require immediate adoption?	Yes	No

Affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Division of State Lands & US Army Corps of Engineers

Local Contact: **Rainmar Bartl (bb)**

Phone: **(503) 436-8040** Extension:

Address: **P.O. Box 368**

City: **Cannon Beach, OR** Zip: **97110**

Fax Number: **503-436-8053**

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 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 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 **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 12-02
COMPREHENSIVE PLAN AND ZONING)
CODE MAP DESIGNATION OF A PORTION)
OF TAX LOT 4001, MAP 51020CB FROM)
ESTUARY (E) TO ESTUARY (E) AND PARK)
MANAGEMENT (PK).


The City of Cannon Beach does ordain as follows:

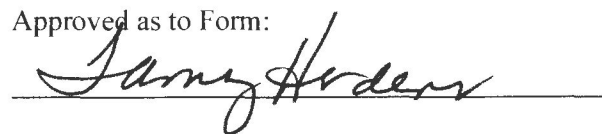
Section 1. The Land Use and Zoning Map, which is part of the City of Cannon Beach's Comprehensive Plan and Zoning Code, is amended to change the designation of a portion of Tax Lot 4001, Map 51020CB from Estuary (E) to Estuary (E) and Park Management (FK) as shown on Attachment "A".

ADOPTED by the Common Council of the City of Cannon Beach this 3rd day of April 2012, by the following roll call vote:

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


Mike Morgan, Mayor

Attest: 
Richard A. Mays, City Manager

Approved as to Form: 
Tammy Herdener, Attorney

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 12-03
COMPREHENSIVE PLAN AND ZONING)
CODE MAP DESIGNATION OF A PORTION)
OF TAX LOT 4001, MAP 51020CB FROM)
ESTUARY (E) TO LIMITED COMMERCIAL)
(C1)

The City of Cannon Beach does ordain as follows:

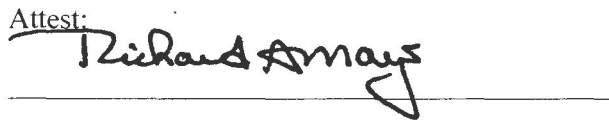
Section 1. The Land Use and Zoning Map, which is part of the City of Cannon Beach's Comprehensive Plan and Zoning Code, is amended to change the designation of a portion of Tax Lot 4001, Map 51020CB from Estuary (E) to Limited Commercial (C1) as shown on Attachment "A".

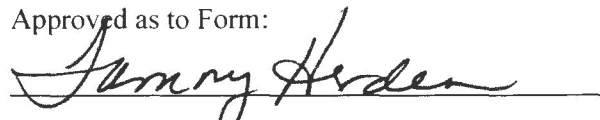
Section 2. The effective date of this ordinance shall be the date that title, to the 27 foot by 30 foot tract of land described in Attachment "A, transferring the described tract of land from the City of Cannon Beach to the Cannon Beach Conference Center is recorded with Clatsop County.

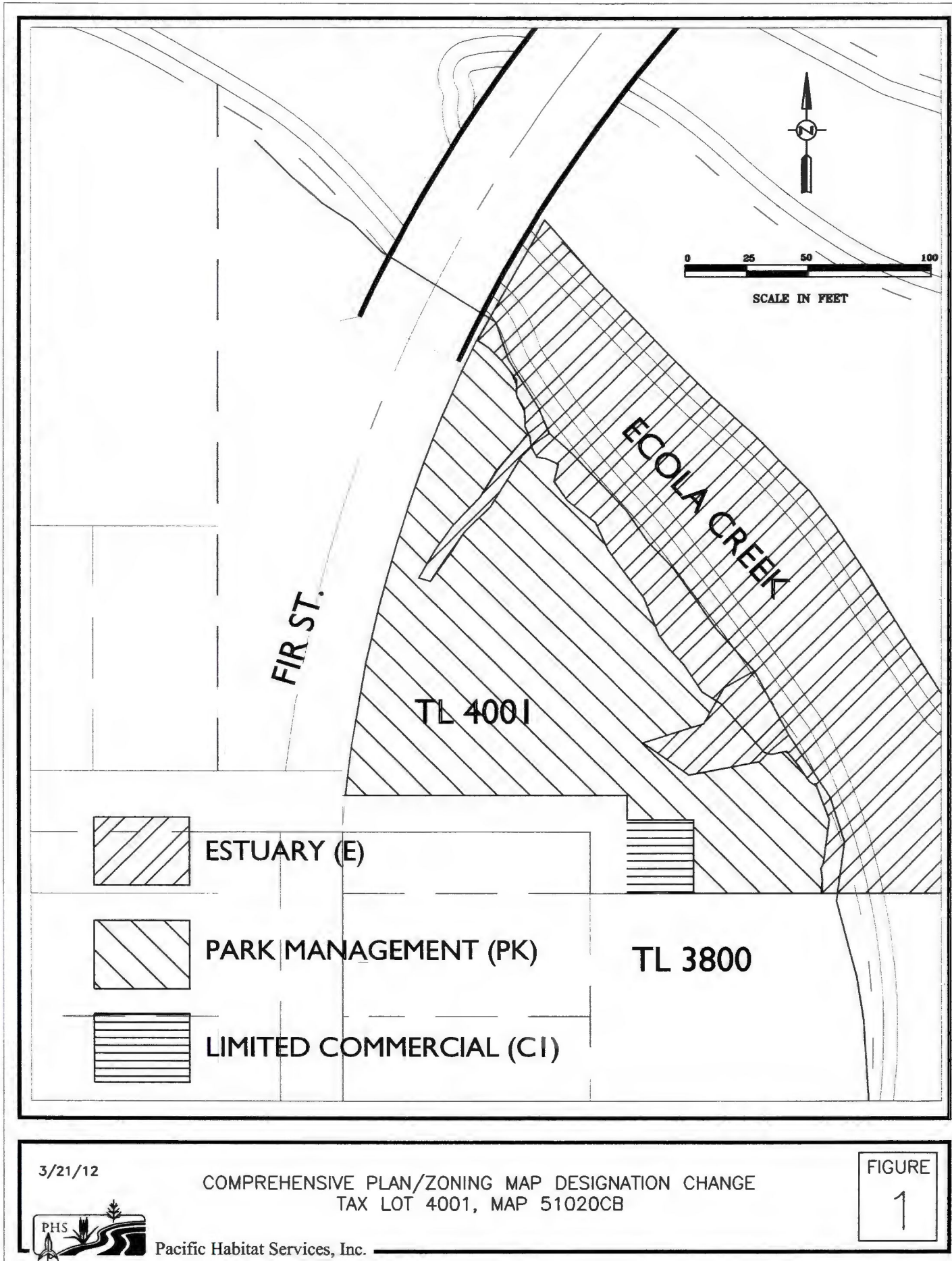
ADOPTED by the Common Council of the City of Cannon Beach this 3rd day of April 2012, by the following roll call vote:

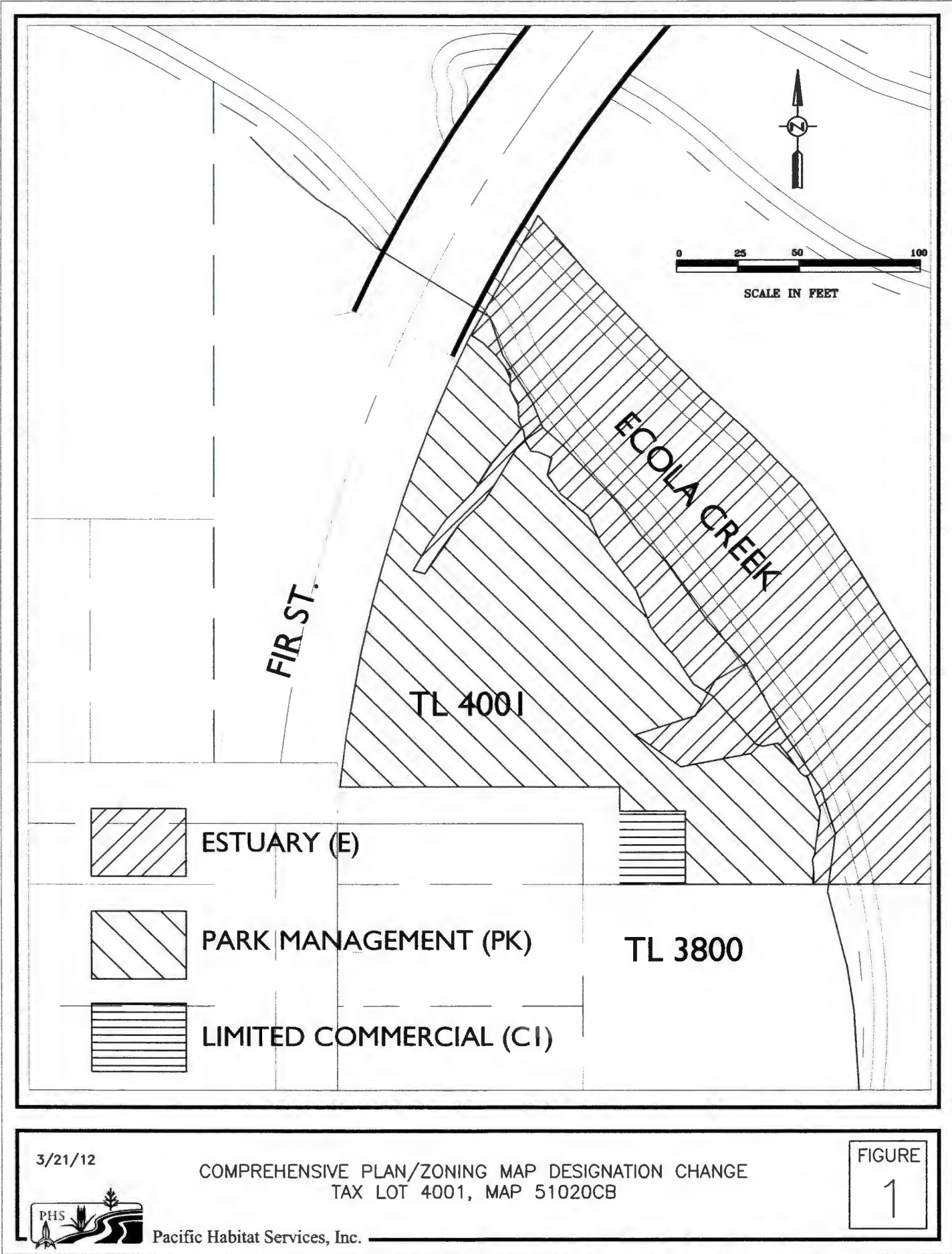
YEAS: Councilors: Giasson, Cadwallader, Higgins, Steidel and Mayor Morgan
NAYS: None
EXCUSED: None


Mike Morgan, Mayor

Attest:

Richard A. Mays, City Manager

Approved as to Form:

Tammy Herdener, Attorney





FINDINGS OF FACT
ZC 11-01, CITY OF CANNON BEACH COMPREHENSIVE PLAN/ZONING ORDINANCE
MAP AMENDMENT, TAX LOT 4001, MAP 51020CB FROM ESTUARY (E), TO ESTUARY
(E), PARK(PK) AND LIMITED COMMERCIAL (C1)

BACKGROUND

The City of Cannon Beach is proposing to construct a multi-use trail north of Second Street on the surface of a dike that separates Ecola Creek from the adjacent portion of the downtown area. The proposed western portion of the trail terminates at Elk Creek Park, in the vicinity of Fir Street, south of the Ecola Creek Bridge. At its southern end, the proposed trail will be linked to the existing pedestrian trail that loops the wastewater treatment ponds and provides a connection, through the Sitka Spruce Reserve, to Monroe Street. To implement the plan for the construction of the multi-use trail, the City of Cannon Beach is proposing to amend the Comprehensive Plan/Zoning Code map designation for Elk Creek Park. The parcel is currently designated E, Estuary. The property is not correctly designated as consisting entirely of an estuarine area. A wetland delineation for the property has been prepared, Wetland Delineation for the Cannon Beach Trail Project in Cannon Beach, Clatsop County, Oregon, November 9, 2011. The wetland delineation determined which portions of Elk Creek Park, Tax Lot 4001, are estuarine as defined by the City's Comprehensive Plan and Zoning Code, as well as the standards utilized by the Oregon Division of State Lands and the US Army Corps of Engineers. In a letter dated January 19, 2012, the Oregon Division of State Lands concurred with the wetland delineation prepared for Ecola Creek Park. The proposal is that: 1). the areas of Ecola Creek Park that meet the definition of estuarine will retain the Estuary map designation; 2). the majority of the remaining area of Elk Creek Park is to be designated PK, Park; and 3). a 27 foot by 30 foot area in the southeast corner of the property is to be designated C-1, Limited Commercial. Changing the map designation of the majority of Ecola Creek Park to a PK designation will not only provide the correct characterization of the extent of estuarine area on the property, it will permit the location of the multi-use trail within the park. The proposed change in the designation for the 27 foot by 30 foot area in the southeast corner of the parcel to C1, Limited Commercial will permit the City to implement a portion of its agreement with the adjacent property owner, the Cannon Beach Conference Center, to permit the construction of a multi-use trail across portions of the Conference Center property. It is the City's intent to deed the 27 foot x 30 foot area to the Cannon Beach Conference Center in consideration for an easement across Cannon Beach Conference Center property adjacent to Ecola Creek. A portion of the proposed multi-use trail is to be located within the easement on Cannon Beach Conference Center property.

Ecola Creek Park is owned by the City of Cannon Beach. Ecola Creek Park is minimally developed with off-street parking, a bench and an informal access to the Ecola Creek. Adjoining map designations are: to the north and east, E, Estuary and MP, Manufactured Dwelling-RV Park; to the south, C1, Limited Commercial; and to the west, across Fir Street, IN, Institutional and C1, Limited Commercial. Adjacent land uses are: to the north and east, undeveloped estuarine areas and a recreational vehicle park; to the south, commercial development and residential uses; to the west, across Fir Street, the Cannon Beach Elementary School and commercial development.

The Planning Commission held a public hearing on the proposed amendment on January 26, 2012.

The Council held a public hearing on the proposed amendment on March 6, 2012.

ANALYSIS/INFORMATION

CRITERIA - ZONING CODE



A. Section 17.86.070.B Amendment Criteria provides that “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.”

Finding: The Ecola Creek Estuary Plan Policies section of the comprehensive plan includes the following definition: “the Estuary is defined to include: estuarine water; tidelands; tidal marshes (wetlands from lower high water (LHW) inland to the line of non-aquatic vegetation); and submerged lands. In areas where there are no tidelands or tidal marshes, the estuary extends to Mean Higher High Water. The estuary extends upstream to the head of tidewater.” The portions of the parcel that have been determined by the wetland delineation to meet the above definition will continue to be designated E, Estuary. The portions of the property determined to be non-estuarine uplands will be given an appropriate non-estuarine designation.

Conclusion: The proposed amendment is consistent with the Ecola Creek Estuary Plan Policies, definition of estuary, in that site areas determined to be estuarine by the wetland delineation retain the Estuary designation.

Downtown Policy 9 states that “the general size of the Downtown commercial and motel area shall remain the same.”

Finding: The proposed map designation change of the 27 foot by 30 foot area in the southeastern corner of Ecola Creek Park from Estuary (E) to Limited Commercial (C-1) is consistent with this policy. The area affected is small, only 810 square feet, or .02 acres. The policy provides for minor amendments to the downtown commercial area in that the language states that the “general size of the Downtown commercial area . . . shall remain the same.” The addition of 810 square feet to the downtown area designated commercial does not affect the general size of the downtown area. If the intent of the policy was to prohibit any additional commercial map designations in the downtown area, it would have said so.

Conclusion: The proposed amendment is consistent with this policy.

Downtown Policy 12 states that “Ecola Creek Park shall be maintained as a passive use site. Consideration may be given to limited improvements which would be necessary for the launching of non-motorized boats.”

Finding: The City is amending this policy to permit the location of a multi-purpose trail in Ecola Creek Park.

Conclusion: The proposal meets this criterion.

2. “The amendment will either: satisfy land and water use needs; or meet transportation demands; or provide community facilities and services.”

Finding: The proposed amendment will permit the development of a public multi-use trail across the upland portion of Ecola Creek Park by properly designating the portions of Ecola Creek Park that are estuarine and upland. A multi-use trail will enhance the opportunities for walking and bicycle use in the City. An increased opportunity for walking and bicycle use will not only provide a recreational amenity, but provide an improvement that encourages non-vehicular modes of transportation in the downtown area. These facts

demonstrate that the proposal not only provides a community facility, but also meets a transportation demand.

Designation of a 27 foot by 30 foot area in the southeast corner of the property as C1, Limited Commercial will permit the City to implement an agreement with the adjacent property owner, the Cannon Beach Conference Center, to permit the construction of a multi-use trail across portions of the Conference Center property. Without the agreement of the Conference Center, the public multi-use trail cannot be constructed. Thus this portion of the proposed map designation amendment also meets the standard of providing for a community facility and addresses a transportation demand.

Conclusion: The proposal meets this criterion.

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

Finding: The portion of the property to be designated PK, Park, is a flat upland area whose site characteristics do not create limitations on the types of recreation uses of Ecola Creek Park that are anticipated by the City. These upland site characteristics will not create limitations on the development of the proposed trail. The portion of the property to be designated C1 is flat and its geologic characteristics will not limit commercial development. Any development will be constructed in conformance with the City's flood hazard overlay zone. The areas of the property determined to be estuarine by the wetland delineation will continue be designated Estuary (E) and development of these areas is limited by the uses permitted in the Estuary Zone.

Conclusion: The proposal meets this criterion.

4. "Resource lands, such as wetlands are protected."

Finding: The portions of the property that have been identified as estuarine wetland, by the wetland delineation, will remain in the Estuary (E) designation and as such are protected by the limitations on uses that are permitted in the Estuary Zone. There are no other "resource lands" on the parcel.

Conclusion: The proposal meets this criterion.

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

Finding: The area to the south of Ecola Creek Park is owned by the Cannon Beach Conference Center. The area is used for commercial purposes and housing associated with the Ecola Bible School. A Park (PK) designation for the property is compatible with these adjacent uses. The designation of the 27 foot by 30 foot area as C1, Limited Commercial is compatible with the adjoining land uses as they are also located in the C1 Zone.

Conclusion: The proposal meets this criterion.

CONCLUSION

The application meets the criteria for a comprehensive plan/zoning ordinance map amendment.

CITY OF CANNON BEACH

P.O. Box 368, OR 97110 • Fax: 503-436-2050 • TTY 503.436.8097 • Telephone: 503-436-1581
Website: <http://www.ci.cannon-beach.or.us> • Email: cityhall@ci.cannon-beach.or.us



DEPT OF

APR 10 2012

LAND CONSERVATION
AND DEVELOPMENT

April 9, 2012

Attention: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Dear Plan Amendment Specialist:

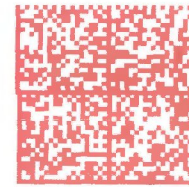
Please find enclosed (2) two copies of the adopted amendments. CP 11-01 to amend the Comprehensive Plan, Downtown Policy 12, to allow for consideration to be given to site improvements for uses such a multi-use trail; and ZC 11-01 to amend the Comprehensive Plan Map and the Zoning Map designation of Tax Lot 4001, Map 51020CB.

If you have questions or need anything further, please contact me at bbrien@ci.cannon-beach.or.us or (503) 436-8052.

Thank you,

Brandy Brien
Administrative Assistant
Executive and Planning Departments

CITY OF CANNON BEACH
P. O. Box 368
Cannon Beach, OR 97110



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DEPT OF

APR 10 2012

LAND CONSERVATION
AND DEVELOPMENT

Attention: Plan Amendment Specialist
Dept. of Land Conservation & Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

