

CITY OF FLORENCE PLANNING COMMISSION
May 7, 2013 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Cheryl Hoile opened the meeting at 7:02 p.m. Roll call: City Commissioners: Robert Bare, Curt Muilenburg, Alan Burns, John Murphey were present. Also present: Interim Planning Director Kelli Weese, Planning Consultant Carol Heinkel, City Manager Jacque Betz, Public Works Director Mike Miller, Intern Katya Reyna, and City volunteer Clarence Lysdale.

Lane County Planning Commission Members: Ryan Sisson, Chair; Robert Noble, Vice-Chair; George Goldstein, Nancy Nichols, James Peterson, Dennis Sandow, John Sullivan, Larry Thorpe were present. Also present: Lane County Planning Director Matt Laird and Senior Planner Keir Miller

1. APPROVAL OF AGENDA

Commissioner Bare moved to approve the agenda as presented; second by Commissioner Muilenburg; by voice all yes, motion approved unanimously.

2. PUBLIC COMMENTS

This is an opportunity for members of the audience to bring to the Planning Commission's attention any items NOT otherwise listed on the agenda. Comments will be limited to 3 minutes per person, with a maximum time of 15 minutes for all items.

There were no public comments.

JOINT CITY/COUNTY PUBLIC HEARING:

3. AQUIFER PROTECTION AND WETLAND & RIPARIAN CORRIDORS LANE COUNTY

COMPREHENSIVE PLAN AMENDMENTS – ORDINANCE NO. PA 13-0582: A proposal to amend the Comprehensive Plan text to adopt an updated Wetlands and Riparian Inventory, and Aquifer Protection Plan, and related policies that apply outside the city within the Florence Urban Growth Boundary (UGB). No County Code Regulations are proposed.

Chairperson Hoile said there was a public hearing before the Planning Commission that evening. The hearing would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria in the Plan or Land Use Regulations which you believe applies to the decision per ORS 197.763 (5). Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue precludes an action for damages in circuit court. Any proponent, opponent, or other party interested in a land use matter to be heard by the Planning Commission may challenge the qualification of any Commissioner to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Commissioner's bias, prejudgment, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

Chairperson Hoile explained the purpose of the Joint Public Hearing of the City of Florence and Lane County Planning Commissions was to consider amendments to the Florence Comp Plan policies that applied outside the City within the Florence Urban Growth Boundary (UGB). No Lane Code regulations were proposed. Following the joint public hearing, the Florence Planning Commission would meet to consider Aquifer Protection and Wetland and Riparian Corridors Florence Code and Comp Plan Amendments.

Chairperson Hoile called for declarations of conflicts of interest or bias. No declarations were heard. She asked if any member of the public challenged the impartiality of the Commissioners. No Challenges were heard.

Chairperson Hoile opened the Florence Planning Commission public hearing at 7:10 p.m.

Lane County Chairperson Sisson opened the Lane County Planning Commission public hearing at 7:10 p.m.

PC Heinkel offered the staff report and provided a PowerPoint presentation (Attachment 1). She distributed a packet of information entitled *Conditions of Approval and Supplemental Information*. She entered into the record the Applicable Criteria as shown in the staff report.

PC Heinkel directed commissioners to Exhibit B in the staff note, which contained the Proposed Legislative Amendments to the *Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013*. PC Heinkel reviewed the Notice and Referrals process used for the proposed amendments process, as found on page 5 of the staff memorandum.

Chairperson Hoile called for questions from Florence Planning Commissioners.

Commissioner Muilenburg observed that the City had adopted the 2013 Wetlands and Riparian Inventory, but the State had not adopted the inventory. PC Heinkel said the State had approved the 1997 inventory, but the technology used to map the wetland had improved. The updated inventory would replace the 1997 inventory at the State and City levels. PC Heinkel confirmed the unbuildable definition would apply only to riparian and wetlands areas.

Commissioner Murphey asked who would monitor and how Rule 8, Dense Nonaqueous Phase Liquid (DNAPLS) would be monitored. PC Heinkel said the City had an existing water monitoring program. There was a business assistance program incorporated into the Aquifer Protection Plan strategies that worked in collaboration with the regulation. Outside the UGB, there was an existing relationship between the City and the County through an intergovernmental agreement (IGA). When development occurred outside the UGB, County staff notified City staff. In the area regulated by the proposed amendments, if proposed land use action occurred in the drinking water protection area for the City's proposed well field, the City Public Works Director would direct staff to determine if DNAPLS were being used, and if so, ask the property owner to use alternative chemicals. The City had initiated an impressive ground water monitoring program three years ago for which it had received a U.S. Environmental Protection Agency (EPA) grant to continue the program for two more years. PC Heinkel said she had received the list of DNAPLS that had been used by the City of Springfield within the last month.

Lane County Chairperson Sisson called for questions from Lane County Planning Commissioners.

Lane County Commissioner Goldstein asked if another treatment plant would be needed if wells were built on the east side of Highway 101. PWD Miller said yes, the City would need to build a new treatment facility.

Lane County Commissioner Goldstein expressed concern about fuel storage tanks at the Fred Meyer site, and asked if PWD Miller was concerned. PWD Miller said the current delineation indicated that the fuel tanks would be outside of the protection area.

PWD Miller confirmed the City had sampled wells at Sand Pines Golf Course and the water mimicked the water from the existing well field. The City had specifically analyzed the water for pesticides, nitrates, herbicides, and organics, and found no problems.

Lane County Commissioner Thorp understood the original wetlands delineation included wetlands outside of the UGB. He further understood Exhibit B and the wetland delineation would only be approved for the portion inside the UGB by Lane County, and would not address properties outside of the inventory.

PC Heinkel confirmed Mr. Thorp's understanding, directing commissioners to Proposed Policy 1, which stated "for identification within the Florence urban growth boundary...the inventory shall be relied on." She added Lane County was not required to address properties outside of the UGB by State law. The study went outside of the UGB because the Department of State Lands (DSL) wanted to update its inventory for that area, which would replace the inventory currently included in the statewide inventory.

PC Heinkel introduced Clarence Lysdale, a community volunteer, who did the riparian inventory. He had a degree in engineering and had experience in this field.

Lane County Commissioner Peterson noted significant areas close to the river as shown on a map in the *Conditions of Approval and Supplemental Information* packet. Mr. Lysdale indicated not all of the wetlands were noted on the map.

Lane County Commissioner Peterson asked if the marsh areas could be redeveloped for fisheries and if the City of Florence would look at a long term planning to rehabilitate the marsh areas. PC Heinkel said in Exhibit C, which would be discussed at the Florence Planning Commission meeting following the joint meeting, the City was proposing code amendments that would provide incentives to property owners to maintain riparian areas and restore the riparian corridor.

Lane County Commissioner Sisson asked if there was a fee at the counter for processing wetland map designations. IPD Weese said a fee had not been established for a map amendment.

Lane County Commissioner Goldstein asked why the Clear Lake watershed was referred to as dunal. PWD Miller said Portland State University (PSU) had mapped the aquifer in the Florence area in 2011, and concluded a portion of the aquifer fed Clear Lake. This was also illustrated in the maps used by the City.

Lane County Commissioner Goldstein stated the pumps were rated to 450 gallons per minute on a 24 hour drawdown. The report referred to one third that rate. PWD Miller asserted the Sand Pine Wells had the potential for producing from 400 to 450 gallons per minute. The City of Florence wells ranged from 200 to 250 gallons per minute, depending on the unique characteristics of each well.

In response to Lane County Commissioner Goldstein, PWD Miller said the aquifer below the surface was larger than 80 acres, and water traveled through the sand through a very broad area. The aquifer had distinct boundaries, running along the north fork of the Siuslaw River, to where the sands met the bedrock. He said nitrates were a concern, and an element of the drinking water standard. The City wanted to ensure the nitrates did not create issues with the septic systems and ground water. There was a well-defined capture area that ran to the north and east of the wells. PC Heinkel noted the capture zone was identified on the maps in the supplemental information.

In response to Commissioner Burns question related to Policy 6, PC Heinkel said by State law, the County was required to ask the City if City sewer service was legally and physically available if a new septic system is applied for or if one failed on property in the UGB. PWD Miller stated Driftwood Shores paid their portion for the extension of sewer service to the resort and the City annexed the right-of-way to build the sewer lines.

Commissioner Burns expressed concern that provision of sewer service could be used to force annexations in the future. PC Heinkel said that would require a change in City policy because today City policy does not allow forced annexation. She said if, in the future, the City changed that policy, the City could not force annexation unless that is allowed at that time by both the Comprehensive Plan and state law. The provision

of City sewer is a separate issue from annexation. The only tie in is that, in Florence, the only way a property owner can get City sewer today is to agree to annex. She said that nothing being proposed in these amendments will have any effect on annexation, today or in the future.

Commissioner Murphey understood if a septic system failed, and the property owner went to Lane County, by law, the County had to ask the City. But, if Lane County would not issue a new permit to build a septic system that could be considered forced annexation by Lane County. PWD Miller explained that other options besides annexation and hooking up to the sewer system were available. If a property owner did not want to hook up to the City sewer system, it could not be forced to do so. If the City told Lane County that sewer hookup was not legally and physically available, the County or DEQ would work with a property owner to find a solution.

Lane County Commissioner Peterson asked if the City recognized other options for sewer disposal other than hookup or septic tanks. PWD Miller said outside of the City, the County regulated sewer disposal. Inside the City, municipal wastewater service was provided.

Responding to Mr. Thorp, Mr. Miller said system development charge (SDC) for a single family residential home was approximately \$4,800, and the sewer connection fee was approximately \$200 to \$400.

Chairperson Hoile asked if anyone in the audience wished to speak concerning the Comp Plan Amendments, Exhibit B.

Leah Patton – 4699 N. Jetty Road, Florence, OR

Ms. Patton said she believed some of the issues before the Planning Commissions this evening were land use issues which required notification. She asserted this meeting was not given proper notification. She said the City said it wanted to protect City water, and it needed to drill new wells, which would cost City residents megabucks. The City did not need new wells because the Heceta Water District (HWD) was prepared to and was capable of providing water for a long time to the City. HWD currently had a maximum peak usage in the summer and fall of approximately 700,000 gallons. Currently HWD was capable of producing 1.5 million gallons per day.

Ms. Patton said the treatment plant was designed to add modular process units that processed 500,000 gallons per day per unit. There were currently three modular units in place, making it possible to process 1.5 million gallons per day. A fourth unit would bring the capacity to 2 million gallons per day. Heceta water was free of iron, and the City would not need to treat Heceta water for iron if the City used HWD water. For this to happen, the City would need to act in good faith and work with HWD to prepare an IGA. Then the City would not need to soak the citizens for money for digging the wells.

Ms. Patton said she believed annexation was high on the City's to do list. Ms. Patton recalled seeing maps at a meeting several years ago with an area identified for proposed future development. If annexed, residents of the north UGB would be required to hook up to the City sewer or pay a waiver fee, which she understood could be as high as \$10,000 per household, which would break the bank for retired people who lived on limited fixed incomes. There were no failed septic systems in that area. She said experts said that septic systems were more environmentally friendly than a sewer plant. Most of the proposed amendments covertly set the stage for annexation.

Ms. Patton asked the Commissioners to send the City's proposed amendments related to the UGB back to the drawing board. She said when Phil Brubaker was mayor, he attended a meeting in Eugene where people were talking about water. He told those present that Florence had plenty of water, would never run out, and could supply the whole area. She thanked Lane County Planning Commissioners for traveling to Florence.

Alta Taylor – 84955 Hwy 101, Florence, OR

Ms. Taylor said she had property within the 20 year travel zone and had not been notified of any meetings. She said she had two septic systems on the property and she had the permits for those systems. They were

legally installed and she felt they would last as long as she owned the property. There was a duplex and house on the property.

Ron Mann - 89201 Sherwood Island Road, Florence, OR

Mr. Mann said this would move forward, regardless of whether he was a proponent or opponent. It was probably going to happen, and all you could hope you got something that did not hurt you too much. His concern was about Exhibit C, related to removal of trees in a riparian area. He and his brother owned 40 acres on the east side of town, and had joined the Munsel Lake properties. The trees on the site had been planted since 1955. They were managing the site as a forestry property although it was zoned RR, rural residential. They would have to take trees down to protect adjacent property owners that were in the wetland.

Mr. Mann said under the proposal, if the trees were taken down, he would have to rely on the goodwill of the City planner to determine whether or not he could take the trees out. The City planner was not a forester and not a wetlands expert. The trees had a marketable value and if they had to come out, he asked why he had to leave them to rot and feed the bugs. He did not see that as helping the wetland issue or substantially protecting the wetland, and it would be punitive to not allow him to take the trees out.

Mr. Mann said he had several properties on Rhodo View that if there was a 50 foot setback, and a 27 foot by 50 foot footprint for a residence, he would not be able to meet the CCRs. Although the City may have a piece of property on which he could build a structure, it did not address what the homeowners' association or CCRs may allow for minimum size. He asked if every site where trees were located would require a delineation which would be costly. There were holes in the policy related to existing properties and structures, which needed to be reconsidered or reworded.

Mr. Mann said there was a gravel road on the mountain that was put in for potential future development of the north 40 acres. With a 50 foot setback for wetlands, if a PUD road was put in, he could not meet the setback because there were grade issues on the uphill side. He had to determine if he was better off logging the land as timber land, replanting the site, and letting his kids log it in 30 or 40 years. The City would help him make that decision based on the decision the City makes with the Comp Plan Amendments. Mr. Mann submitted a letter dated May 7, 2013 to the Planning Commission for inclusion in the public record.

Gene Wobbe – P.O. Box 1136, Florence, OR 97439

Mr. Wobbe identified himself as a representative for Habitat for Humanity. He said Habitat for Humanity had a property that would be impacted by the 50 foot setback on Munsel Lake Road. He had questioned the 27 foot by 50 foot minimum structure that could be built on the site. He understood the 50 foot by 27 foot size was a standard double wide manufactured home. He had also asked about zoning requirements for a garage. He was told the City would look into that, and he saw that the code now proposed that any code requirements of the applicable zoning district such as garages that would necessitate intrusion into the riparian area would not apply.

Mr. Wobbe said if the City felt it was important to have a garage when it passed the zoning ordinance and this was a necessity, it was as important now as it was then, and it did not make sense to now say the code did not apply and a garage was not needed. This did not seem to be in the best interest of the City or the property owners.

Staff Response

PC Heinkel suggested response to testimony from Ron Mann and Gene Wobbe related to zoning requirements related to Exhibit C be deferred until she gave the Exhibit C presentation to the Florence Planning Commission. She stated Goal 5 required clear and objective procedures, as well as performance standards that required weighing and balancing of resource protection versus property rights, which could only be done through a public hearing and deliberation by a body that represented the public and planning interests of the community.

PC Heinkel said when developing the City of Florence's definition of unbuildable, staff considered that the clear and objective path would allow a double wide manufactured home, because that was a form of affordable housing. Additionally, there was a variance process open to everyone, which would require a Planning Commission public hearing. The definition for unbuildable was included in the Comprehensive Plan and in the proposed City Code language that would allow for intrusion into the setback based on a hardship claim.

PC Heinkel said additionally, a Supreme Court takings case that addressed basic property owner rights was written into the Comprehensive Plan. In response to Ms. Patton's assertion that public notice was not provided, Ms. Heinkel said public notice provided was completely consistent with State law, City Code and Lane Code, and had gone beyond the minimal requirements. There were three public open houses, three newsletters were sent to every resident in the study area over a three year period, and there were meetings with property owners.

In response to Ms. Patton's questions about new wells, PWD Miller reviewed the City's well production. He said the wells were capable of producing 3 million gallons per day, and the treatment plant was capable of treating 3 million gallons per day. The peak summer demand he had observed was 2.2 million gallons per day. The typical year round average was approximately 1 million gallons per day. PWD Miller said the City currently had surplus capacity and was looking to the future.

PWD Miller said the proposed well field may be needed in 20 to 25 years. Water demands had dropped off during the last two years. Twelve wells were in production and a 13th well was ready to go into production this year, and well 14 would be drilled in the existing well field in about two years.

Responding to Ms. Patton's questions about failed septic systems, PWD Miller stated the City received notification on failed septic systems from Lane County, adding a dozen systems had failed since January 2013. There was no waiver fee for failed septic systems in the annexation process.

PWD Miller said negotiations with the HWD for an IGA were ongoing, but not required under State law. The City currently had sufficient capacity and did have ties with HWD for emergency water. It was not clear to him that HWD had the capacity to provide water to the City with the restrictions on their water rights.

PC Heinkel said a new well site analysis in the aquifer protection plan, documented the City's need for future wells, as required by State law, had been certified by the Oregon Health Authority (OHA). Additionally, the State Department of Environmental Quality (DEQ) and the U.S. EPA designated the North Florence dunal aquifer a sole source aquifer, which said septic systems were a threat to the aquifer, and the DEQ called for hooking up to municipal sewer systems when available because it recognized that municipal sewer systems were superior to septic systems in protecting the ground water. PC Heinkel reiterated that the City had an adopted policy that stated the City would not force property owners to annex to the City. She added the annexation policy was not in any way affected by any of the proposals before the Planning Commissions. The purpose was to improve and protect water quality in the lower Siuslaw Watershed.

In response to Ms. Taylor, PC Heinkel said the City did an overlay of the drinking water protection overlay zone areas and identified all of the property owners and sent them notice, and the notice was published in the newspaper, and posted on those properties, which went beyond State requirements. She said there was nothing being proposed that would prohibit Ms. Taylor from using the existing legally installed septic system on her property as long as the permitting agencies allowed it.

Commissioner Questions

Commissioner Muilenburg said the current code required a 50 foot setback from riparian sites, which was not proposed to be changed. PC Heinkel confirmed that issue was addressed in Exhibit C. The existing 50 foot setback requirement from Munsel Creek and other drainage areas in the City were riparian areas and wetlands. The proposed code amendments would make it better for property owners. She reviewed the unbuildable definition for homeowners. She added a developer of many homes or businesses would be

inclined to go before the Planning Commission because they had more to gain and more invested than the single family property owner.

Responding to Lane County Commissioner Nichols, PC Heinkel confirmed the footprint rather than the total square footage was the basis for the simple approach. Ms. Nichols suggested a 3,000 square foot house could be built within the footprint because it could be two stories.

Lane County Commissioner Peterson suggested the Oregon Department of Forestry could provide information for the urban protection program. PC Heinkel said wildfire protection issues would be addressed in the Exhibit C presentation.

Commissioner Bare heard concerns about well development. He had been the general manager of a water company and had worked in a sewer department. Developing wells as a main or backup source was consistent with sound planning and management principles and he was pleased the City was doing that planning and work.

Lane County Commissioner Sisson concurred with staff. He noted there was a mechanism through which staff, the City and DEQ could recognize requests for exemption for sewer connections, when the criteria were met.

PC Heinkel stated staff had concluded that the proposed legislative amendments to the Comp Plan in Exhibit B were consistent with the Florence Realization 2020 Comp Plan, the Florence City Code, Lane County Rural Comprehensive Plan, Lane Code, Oregon Revised Statutes, and Statewide Planning Goals and associated Oregon Administrative Rules. She said staff recommended the Florence Planning Commission and the Lane County Planning Commission recommend adoption of the Comp Plan amendments in Exhibit B to the Florence City Council and the BCC.

Chairperson Hoile observed there were no questions from Florence Planning Commissioners. She noted consensus by Commissioners to recommend the proposed legislative amendments to the Florence City Council.

Lane County Commissioner Sisson closed the Lane County Planning Commission public hearing and called for deliberation by the Lane County Planning Commission.

Lane County Commissioner Sullivan stated the Lane County Planning Commission typically was more specific with recommendations to the BCC than those proposed by staff. He asked staff if the BCC would be comfortable with the proposed general recommendation. PWD Miller suggested the Lane County Planning Commission make a recommendation to the BCC for or against or to modify PA 1299.

Lane County Commissioner Nichols was in favor of the proposed recommendation. She had served on one of the committees that reviewed the proposed amendments and believed the proposal was well thought out.

Lane County Commissioner Goldstein had reservations about the proposal but it was not his job to deal with them. He would go along with the proposal.

Lane County Commissioner Thorp supported the proposal. While some people had issues with components of the proposal, they were City of Florence issues rather than Lane County issues.

Lane County Commissioner Peterson was satisfied that the City of Florence was taking stewardship of the land seriously.

Lane County Chairperson Sisson concurred with comments from Lane County Planning Commissioners.

Lane County Commissioner Sullivan said the premise of the proposed amendments was to protect and improve water quality, and there were issues that the City of Florence would need to address. There had been excellent citizen involvement. There were no amendments to Lane Code through this process. Goal 5

requirements to the three step process had been addressed, which was a benchmark for consideration by the BCC. The management strategy related to co-adoption developed for Lane County was clear and concise.

Lane County Commissioner Sullivan, seconded by Mr. Peterson, moved to recommend to the Board of County Commissioners adoption of Ordinance No. PA 1299 and the proposed Comprehensive Plan amendments in Exhibit B, subject to the following condition: Prior to adoption, the 2013 Wetlands and Riparian Inventory be approved by the Oregon Department of State Lands and include any modification approved by the DSL to respond to property owner requests. The motion passed unanimously, 6:0.

~ ADJOURNMENT OF LANE COUNTY PLANNING COMMISSION MEETING ~

The City of Florence Planning Commission took a 10 minute break.

CITY PUBLIC HEARING (CONTINUATION):

4. **AQUIFER PROTECTION AND WETLAND & RIPARIAN CORRIDORS FLORENCE CODE AND COMPREHENSIVE PLAN AMENDMENTS – RESOLUTION PC 13 03 CPA 01, PC 13 04 TA 01, AND PC 13 05 ZC 01 (ORDINANCE NO. 2, SERIES 2013):** A proposal to amend Florence Realization 2020 Comprehensive Plan to adopt an updated Wetlands and Riparian Inventory, an Aquifer Protection Plan, and related policies, as well as housekeeping amendments, and to amend Florence City Code to comply with Statewide Planning Goals for wetlands and riparian areas and groundwater resources, including a Drinking Water Protection Overlay Zone to apply to the use and storage of hazardous materials within the Drinking Water Protection Area for the City’s proposed drinking water well field, and housekeeping amendments.

Commissioner Hoile called the meeting back from recess at 9:26 pm. She said they were moving on to the city public hearing. The next portion of the meeting was for the city’s proposal to amend Florence City Code Text (Exhibit C).

Staff Report

PC Heinkel said this was a continuation of the city’s public hearing on the ordinance (Part 2, Exhibit C), city only. She said it was the proposed amendments to the city code. PC Heinkel gave a quick recap of the first part of the public hearing. PC Heinkel continued with the power point (Attachment 1) that showed where the proposed Drinking Water Protection Area zone would apply for the city’s proposed well fields.

PC Heinkel talked about the proposed Code amendments in Exhibit “C”. She said they were the Aquifer Protection (Quasi-judicial Amendment), Wetlands and Riparian Corridors (Legislative Amendment), and a Housekeeping Amendment (Legislative Amendment).

PC Heinkel said the Aquifer Protection Amendment was to adopt a new Drinking Water Protection Overlay Zone Map and the Overlay Zone District would be a new Chapter 32 in Florence City Code Title 10. She said she received some public comments related to Exhibit “C” and they pertained to Wetlands and Riparian areas.

PC Heinkel gave a verbal report on the topic of the Aquifer Protection. She said changes were recommended to Exhibit “C”. She said staff recommended adoption of the Florence City Code Amendments in Exhibit “C” with the condition that Exhibit “C” contain the changes to the proposed code presented at tonight’s hearing. PC Heinkel said the changes were in response to a citizen, and staff did further research of the proposed code and found that additional provisions were necessary for clarification and consistency regarding the removal of native plants within the required buffer zones.

PC Heinkel said the Drinking Water Protection Overlay Zone would apply to industrial and commercial uses in the Drinking Water Protection area for the proposed well field. PC Heinkel pointed out that this area was

the 5, 10, 20 and 30 year time of travel zones. She said there were no industrial or commercial in the 5 year time of travel zone and that there would be no standards for this zone.

PC Heinkel discussed the objectives of the overlay zone which were to protect the city's drinking water supply from impacts by facilities that have on premises substances that pose a hazard to groundwater quality. She discussed the proposed regulations and how they would be implemented. PWD Miller stated this program was all about education and outreach, which included working with the businesses and the fire marshal.

PC Heinkel referred to the proposed code amendments for the Wetlands and Riparian Corridors from the staff report. She said the proposed city code applied to significant wetlands and riparian reaches within the city limits. PC Heinkel referred to the power point (Attachment 1) and stated that these areas were significant resources and were identified by number in the Wetlands Riparian Plan. PC Heinkel discussed the methods used to prepare the code changes including the Safe Harbor and limited protection approaches.

PC Heinkel discussed the ESEE Analysis on the Munsel Creek Side Channel, stating that a program was developed which would allow the Side Channel to get a 50% setback reduction, up to 25 feet from the creek if native vegetation was displaced. She said the Limited Protection Program was a combination of the Safe Harbor and the ESEE Analysis.

PC Heinkel discussed the current storm water code and the vegetation clearing permit code and the proposed amendments. She said that if the city was allowing people to improve the Riparian area, the city needed to have oversight to make sure the Riparian Area stayed in place.

PC Heinkel discussed the comment from Mr. Wobbe regarding the zoning requirements for garages. She said Mr. Wobbe testified if the city felt it was important to have a garage when they passed the zoning ordinance it was just as important now as it was then. PC Heinkel responded saying the decision needed to be made by the Planning Commission not the city staff. Property owners could put in a garage and make the argument that city code allowed a garage, required a garage and all neighbors had garages, but the Planning Commission would do that through a variance process rather than city staff having to make that call because it is not clear and objective criteria.

PC Heinkel said in Exhibit "C" there were specific provisions for how to measure the wetlands and the riparian areas. She said there were maps for the riparian areas that the city would give to people, and said there was a specific process in the city code to follow if someone did not agree with the map and how they could measure the riparian area themselves and bring to the city and demonstrate their measurement. She discussed the options available.

Questions from Commissioners

Commissioner Burns asked PC Heinkel to go back to the Proposed Drinking Water Protection Overlay Zone. He wanted it known that the new proposed wells were on the west side of Highway101, not the east side as Lane County Commissioner Goldstein discussed.

Commissioner Muilenburg asked PDW Miller if there was any consideration given to the depth of the water level in each of the 5, 10, 20, 30 year zones, and asked if the level of the water in the aquifer varied in depth or was consistent. PWD Miller responded saying the water level was fairly consistent, because the groundwater came to the surface in a number of areas where the proposed wells were going. PWD Miller said the concern was anything that got into the aquifer would be costly to remove. He said that was why the standards were the way they were, to protect the resource in the future.

Commissioner Muilenburg asked about significant wetlands and if they had been defined as ½ acre or larger. PC Heinkel referred to the law by the Department of State Lands. She said that threshold was chosen for

applying the wetland buffer zone. Commissioner Muilenburg asked if anything on the DSL list for 2013 would be ½ acre or larger and PC Heinkel said it would be.

Commissioner Muilenburg asked if the discussion regarding the 50 foot riparian setback on Munsel Creek had been defined and PC Heinkel said it was from top of bank out to the edge of the riparian width as required by state law.

Commissioner Murphey questioned the wording in Exhibit C on page 1 regarding downed trees which he proposed to be changed from “the department may require these trees to remain in place” to “the department requires downed trees to be removed if they pose no threat to the wetlands or riparian resource area”, because of the wildfire potential. PC Heinkel responded that it said “the city may require” and Commissioner Murphey wanted to know who would make that decision. PC Heinkel referred to the Vegetation Clearing Permit process. She said that was why the clause “by a professional” was added so that property owners would get the professional advice with the professional providing the justification to take out the downed trees or leave them. Commissioner Murphey thought that most of the time an expert in riparian area would require the downed trees be left because of the possible damage to the riparian area removing the trees. He talked about his concern of dead fuel being stacked up within the city limits waiting for disaster to happen. PC Heinkel said that there was an exception for hazardous trees in the code. She said there was another exception in the storm water quality code under “G” regarding hazardous trees, which was a cross reference to the vegetation clearing permit application. Commissioner Muilenburg pointed out that the wording in the beginning of the paragraph read “the department” and at the bottom it read “the planning department”. He made a suggestion to change the wording to “the planning department” to be consistent. PC Heinkel said she would make the change.

Public Testimony

Chairperson Hoile asked for testimony from the public whether they were an opponent, proponent or neutral.

Marvin Ryall – 05460 Friendly Acres Road, Florence, OR.

Mr. Ryall said he owned two parcels in the Overlay Zone, one of those was Ron’s Paint Building and the other were three warehouses that housed Habitat for Humanity Resale Store, Commercial Contractor Storage and a RV storage and for the outside RV storage he said he had a conditional use permit. He said he was opposed to the proposed zoning because he had questions.

Mr. Ryall said currently he was in the North Commercial Zone, which was a restrictive zone; the same zone as Fred Meyer’s. He said when overlay zones were in place, it put the burden of proof on the property owner. He said this concerned him because it would depreciate the value of the property and make it harder to sell.

Mr. Ryall stated the time of travel zone was very confusing and hard to understand as to what it proved. He said he knew the aquifer water movements and agreed with the time frames. He said that there were other movements of water, such as the surface water, groundwater and high events flows where the water moved in all directions, allowing possible contamination from one property over to another property, disguising where the original contamination occurred.

Mr. Ryall said that his biggest concern was that the east third of the zone was Highway 101, a main corridor on the coast carrying all kinds of hazardous waste. He wanted to know how the property owners were going to be burdened with something they had no control over. Mr. Ryall stated his concern that this particular exposure area had not been addressed.

Mr. Ryall said his most important concern with the overlay zone was the cost to the property owners, such as additional development fees and inspection fees, water retention area modification, parking lot drainage as well as other possibilities that would cause conflict with the property owners. Mr. Ryall asked the

Commission to consider some of his concerns and said he would like to see other ways to educate the property owners rather than having this zone burden put on them.

Earle Schertell – 707 Quanagh Court, Florence, OR

Mr. Schertell said he was concerned about RRHA being declared as a waterway. He said it was a drainage ditch that does not completely flow 12 months out of the year. He said it might flow 6-9 months depending on the rainy season and how much water flowed through there. He said his concern was how this area was declared to be a riparian area, because it is not a full forest waterway 12 months out of the year. He went on to say that there were dead trees in the area as well. Mr. Schertell wanted to know who would be responsible for taking care of those trees, because if they were to fall, it could be a fire hazard, in the summer months if the creek is dry.

Dave Jaeger – 102 Manzanita Way, Florence, OR

Mr. Jaeger said he was one of the ten property owners in Coast Village that had been determined to be unbuildable or buildable with major restrictions. He said that ten years ago, after a friend fell into the drainage ditch, which is now the Munsel Creek Side Channel, they went to the City Planning Commission and talked to them about putting tubes in the ditch that would not disturb the water flow on either side of the ditch and the city approved it. Mr. Jaeger said they received a letter from the city stating it was okay for this modification to be done and they still have the letter. He said the drainage ditch they cleaned out, put the tubes in and covered at great expense is where their 5th wheel trailer is now, and the inspector at that time said it was fine. Mr. Jaeger said he asked the inspector if they would be able to put a double wide mobile home in the same spot at a later date and were told it would be fine. Mr. Jaeger stated 10 years later they discovered they can't put a double wide mobile home anywhere on their property because of the restrictions that were put on by Coast Village, the city, the fire department and now by the riparian proposal. He said the letter they received from the city years ago stated they could do anything they wanted legally, as long as they kept a 5 foot buffer zone on either side of the creek, in order to prevent erosion of the land.

Mr. Jaeger said there were two points to look at. The first point was that the commission was looking for clean water and he referred to the report PC Heinkel talked about and said it mentioned that there were trace amounts of phosphates and caffeine in Munsel Lake . He suggested that because phosphates came from dish soap and caffeine is found in coffee that the likely cause for the trace amounts were septic tank effluent and everybody in Coast Village was on city water and city sewer which means there was nothing dirty going into the creek.

Mr. Jaeger said the second point was for the fish. He said fish did not live on land and the creek was dry six months out of the year. He said the creek is 5 feet wide and Mr. Jaeger said the current depth of the creek was 2 inches deep and 4 feet wide. Mr. Jaeger said there was something wrong in calling this a riparian corridor because there was more water going down the shower drains than going through the creek. He said the Salmon and Trout Enhancement Program (STEP) knocked down a beaver dam in the headwaters last July in order for water to run through the creek, in order to show the creek was capable of carrying fish. Mr. Jaeger talked about two runs of fish; one in October and one in January. He said the one in January would have no water to spawn in and he wanted to know who was going to be responsible for those dead fish. He said the dead fish posed a public safety issue because the smell of the fish brought the bears into the area. Mr. Jaeger finished by suggesting the proposal be put on hold until all the rules and regulations were finalized in a manner that could be understood.

Diana Glasgow – 138 Driftwood Drive, Florence, OR.

Ms. Glasgow said she was a property owner along the Munsel Creek Side Channel inside Coast Village. She said she was very excited to hear the possibility that she had a Coho Salmon Habitat in her backyard. Ms. Glasgow stated she understood that the proposed code changes would have no negative effect on her property. Ms. Glasgow said she was on the Board of Directors of Coast Village and the Board was aware of

their mutual responsibility with the city for water quality in the Florence area. She said the board had budgeted and approved the replacement of all five sewer pump stations on their 5 year plan, with completion in June 2016 and they had the money, scheduling and were awaiting receipt of final bids, to replace 2 of the 5 sewer pumps in the summer of 2013.

Staff Response to Public Testimony

PC Heinkel responded to Mr. Schertell's concern of the Overlay Zone, saying the standards in the Overlay Zone did not apply to existing businesses, but to businesses that apply for a building or land use permit. She said the Overlay Zone did not apply to existing businesses using chemicals, unless they wanted to expand the business or change the use of the business to something else. PC Heinkel said that this was a policy choice of the city and it is not required by law. The city staff and the stakeholders recommended this Overlay Zone because the hazardous chemicals in the Time of Travel Zones could result in making this unavailable as a future water source for the city.

PC Heinkel defined the Time of Travel Zones and how hazardous chemicals moved in the aquifer. She referred to the City of Springfield, OR and said that hazardous chemicals entered one of their well fields and the well field had to be decommissioned. The business owner that was responsible paid multi-millions in order to remedy the situation and caused the City of Springfield to have a Drinking Water Protection Overlay Zone applied to their existing well fields as well as proposed well fields. PC Heinkel said that this was the reasoning for the Overlay Zone in the City of Florence.

Chairperson Hoile asked PC Heinkel about the Highway 101 concern in the Overlay Zone. PC Heinkel said the Aquifer Protection Plan had a procedure for the transportation of hazardous materials. She said when a spill happened, there was a well-established program through the Fire Marshal's Office called "Spill Response" and the city was notified; and in the Contingency Plan portion of the Aquifer Protection Plan it spelled out step by step how the transport materials were dealt with in the event of a spill. She said that just because there was a spill or contamination, the property owners would not be culpable just because it was an Overlay Zone. She stated that the Overlay Protection Zone actually helped the property owners because it would make sure that businesses on their property were using, storing chemicals in a way that doesn't create a liability.

PC Heinkel said there were no fees being proposed and it was a form that the property owner would fill out as part of a building or land use permit application. She said there were no requirements for increased water retention or drainage facilities. She said that this particular concern was addressed in the City Storm Water Regulations which were already adopted and updated as part of this process, and not likely to be proposed in the future.

PC Heinkel addressed the concern of depreciation of property by saying that in Springfield that was not the experience. She said that the relationship with the businesses concerning the Drinking Water Protection program was a very good one, and the businesses supported the Drinking Water Protection Program in Springfield when it was adopted.

Questions from Commissioners

Commissioner Burns asked PC Heinkel if it could be recommended to the Council that the city not establish an Overlay Zone fee, saying that PC Heinkel proposed no fee in the future, but he wanted it in writing. The Planning Commission agreed. PC Heinkel made a note to put in the request to council.

Staff Response (cont'd)

PC Heinkel responded to Mr. Schertell's concern about the RRHA Riparian Area because it did not flow year round. She said that intermittent flowing streams were treated the same as continuously flowing streams

under state law and it was not relevant that it was an intermittent stream as far as whether it was significant or not.

PC Heinkel addressed the concern of the hazardous trees, and stated she had spoken with Mr. Schertell and it was understood that he would come into the city and file a complaint regarding trees on his property or on another property that posed a fire hazard to his property.

PC Heinkel discussed Mr. Jaeger's concern over Munsel Creek Side Channel saying that there had been a 50 foot setback on all of Munsel Creek for over 30 years, and it was well established in city code. She said it applied to both sides of the creek as well as Munsel Creek Side Channel, and Florentine Estates is north of Coast Village on the side channel. PC Heinkel said that Florentine Estates received a variance from the Planning Commission for a 25 foot setback reduction of the 50 foot setback and it was very clear in the Planning Commission Resolution and staff report materials. PC Heinkel said that Coast Village did receive an agreement from the City Council for many considerations in the code amendments that were written into the code.

PC Heinkel said the first thing that occurred was the ESEE Analysis on the wetlands exception, the public infrastructure, as well as for the Munsel Creek Side Channel which was done out of consideration for the conflict that existed on the Munsel Creek Side Channel. She said the analysis was also done on the 50% setback adjustment through administrative review to address the concerns of the cost and also a variance fee waiver for situations where a Variance would be required. She said this was all in code to the Coast Village residents due to the unique circumstances of that area. PC Heinkel said staff and city council were aware of Mr. Jaeger's concern that his property was considered in violation. She said that all existing structures were grandfathered in Coast Village, but in other parts of the city, property owners would have to demonstrate that structures were lawfully created. She said all the structures in Coast Village were considered lawfully created, due to the way that area developed.

PC Heinkel stated that there were many considerations for Coast Village concerning the code amendments, and it benefited Coast Village by making their situation much better from what was in the code currently. She said this was a critical habitat for Coho Salmon and it had been in place in writing from federal and state agencies for years and this was why there was little that could be done to counter that.

Questions from Commissioners

Commissioner Muilenburg commented that the Planning Commission and the City realized that Coast Village was unique and met with the property owners and did a code update for them. He said they tried to work with the property owners to make some of the properties more developable. He said that the buildable language gave the possibilities for property owners to get variances.

Commissioner Muilenburg wanted clarification that he understood the reason for the Drinking Water Overlay Protection Plan was for the potential of possible contamination in that area, more than other areas depicted on the overlay map. PC Heinkel said he was correct in his understanding and that it was in place to protect the city's future water source.

Commissioner Muilenburg asked PWD Miller about the 10 year or 20 year well side of the overlay and wanted to know if there were test well sites in those areas to test. PWD Miller said it was a new well field and that they had access to many monitoring wells in the area, allowing them to have an idea as to what was happening to the area, and as they moved forward there would probably be more monitoring wells with access and that made for a large range of possibilities.

Commissioner Muilenburg wanted clarification of the "grandfathering" of the existing properties in the Overlay Zone. He asked if a business sold to another business, would the current business be pushed into the requirements, and PC Heinkel responded saying the Overlay Zone Requirements would only apply if the new owner received a building or land use permit.

Commissioner Muilenburg wanted to clarify that there were multiple regulatory agencies involved with Munsel Creek as it pertained to Coast Village, and the Planning Commission and the City Council had to be in agreement to approve changes.

Chairperson Hoile closed the hearing at 10:40 pm.

Staff Recommendations

PC Heinkel recommended adoption of the Florence City Code amendments in Exhibit "C" to the Florence City Council, subject to the following changes:

- That Exhibit "C" contain the changes to proposed codes that were presented at the hearing of May 7, 2013 which were in the handout Recommended Changes to Exhibit "C" and that staff forward to the city council the planning commission recommendations.
- The adding of the word "planning" to exhibit 3 page 1.

Commissioner Burns made a motion to approve Resolution PC 13 03 CPA 01, PC 13 04 TA 01, and PC 13 05 ZC 01 and forward the amendments to the City Council; second by Commissioner Muilenburg; by voice all ayes, motion carried unanimously as presented.

5. CALENDAR

IPD Weese informed the Commission on upcoming calendar events including...

- Tuesday, May 14, 2013 – Public Hearings for: Peace Harbor Hospital Design Review, Siuslaw River Christian Fellowship Church 7:00 pm at Florence City Hall
- Tuesday, May 28, 2013 – Public Hearing, Cannery Station Development, 7:00 pm at Florence City Hall
- Tuesday, June 11, 2013 – Regular Session, 7:00 pm at City Hall

Chairperson Hoile adjourned the meeting at 10:45 p.m.



Cheryl Hoile, Planning Commission Chairperson

Public Notice

DCLD notice sent March 01, 2019. If any 30-day period for the first (Florence) or second (Lafayette) hearing is required by the Comprehensive Plan and/or state rules, the 30-day period will be held as required by state law.

A public hearing was held on April 23, 2019 at the City of Florence, Oregon, 1000 Riverside Parkway, and 1000 1st Ave.

Relevant Measure 50 Notice sent on 4/27/19 to owners of property in the urban growth boundary (UGB) and Wetlands and Riparian Corridor (WRC) areas. The notice included information about the proposed amendments.

In accordance with Oregon City Code, a public hearing was held on 4/27/19 at the City of Florence, Oregon, 1000 Riverside Parkway, and 1000 1st Ave. The hearing was held on 4/27/19 and notice was posted on properties within the proposed area by 4/27/19.

Proposal Description: Exhibit B

Proposed Legislative Amendments to the Florence Realization 2020 Comprehensive Plan for:

1. Aquifer Protection
2. Wetlands and Riparian Corridors

Referral Responses and Public Comments: Exhibit B

- A. Questions from the Lane County Planning Commission April 16, 2019
- B. Comments from Janet Siegel, Zoning and Planning Director, Lane County
- C. Property owner comments related to boundaries of mapped Wetland #1

Synopsis of EXHIBIT B as it Pertains to Lane County

EXHIBIT B consists of three maps: 1. Inventory & Assessment, 2. Significance, and 3. Protection. The maps show the location of Wetlands and Riparian Corridors in Lane County.

1. Inventory & Assessment
2. Significance
3. Protection

For more information, please contact the City of Florence, Oregon, at 503.746.2200.

The City of Florence, Oregon, is currently reviewing the Comprehensive Plan and City Code to ensure consistency with the proposed amendments.

The City of Florence, Oregon, is currently reviewing the Comprehensive Plan and City Code to ensure consistency with the proposed amendments. The City of Florence, Oregon, is currently reviewing the Comprehensive Plan and City Code to ensure consistency with the proposed amendments.

Condition of Approval to Respond to Property Owner Comments: Exhibit B

Recommend adoption of the Comprehensive Plan amendments in Exhibit B to the Florence City Council/ Lane County Board of Commissioners/ County Council on the following condition of approval:

Prior to adoption of the 2019 Wetlands and Riparian Inventory, it is approved by the Lane County Board of Commissioners/ City Council and it is understood that the City of Florence will be required to respond to property owner requests.

Rationale: Oregon Administrative Rules require that the inventory be approved by DCLD prior to adoption by the local government. DCLD is currently working with two sets of property owners to address questions they recently raised about the inventory maps. The Condition of Approval will allow DCLD to address these issues, if indicated, in the final inventory that will be approved by DCLD prior to local adoption.

Proposal Description: Exhibit B

Proposed Legislative Amendments to the Florence Realization 2020 Comprehensive Plan for:

1. Aquifer Protection
2. Wetlands and Riparian Corridors

EXHIBIT B: Comprehensive Plan Amendments for Aquifer Protection:

Adopt Aquifer Protection Plan as part of Comprehensive Plan, except for Contingency Plan. (City will adopt Contingency Plan through Ordinance but not as part of Comp Plan)

All Management Strategies in Plan apply to City of Florence.
Only some Management Strategies apply to Latham County

Adopt DHA-Certified Drinking Water Protection Delineations (DWPAs) and Delineation Report as part of Comprehensive Plan. (City will use DWPA for proposed wellfield for reference for DWPA Overlay Zone - City only)

Adopt Comprehensive Plan policies for compliance with Statewide Planning Goal 5

DWPA
Delineations
certified by
the Oregon
Health
Authority



Aquifer Protection Plan

Prioritized Strategies to protect the aquifer and surface waters

Aquifer-wide Management Strategies

Management Strategies for **Wellfield**
Drinking Water Protection Area (DWPA)

Management Strategies for **Wellfield**
DWPA

Aquifer Protection Plan

Prioritized Management Strategies to protect the aquifer and surface waters

H (High): Begin to implement immediately or continue to implement, if already being done

M (Medium): Begin to implement in next two fiscal years

L (Low): Implement as time and financial resources are available

Aquifer-wide Management Strategies

Land uses: All

Strategies:

1. Surface and Ground Water Monitoring - H
2. Public Education - H
3. Coordination - H
4. Integrated Pest Management - M

Existing Wellfield Management Strategies

Land uses: Residential, Private Open Space, Public

Strategies:

1. Conduct targeted public education and outreach (M)
2. Continue to monitor potential contaminant sources (H)
3. Work with landowners (H)
4. Target integrated pest management efforts to DWPA (M)
5. Adopt comprehensive plan policies and code amendments (H)
6. Work with home owners associations (H)
7. Continue to work with golf course managers (H)
8. Continue to monitor sewer lines (H)

Proposed Wellhead Management Strategies

Land uses: Residential, Commercial/Industrial, Private Open Space, Public

Strategies:

1. Conduct targeted public education and outreach (W)
2. Adopt comprehensive plan policies and code amendments (H)
3. Continue to monitor potential contaminant sources (H)
4. Work with GADWD (H)
5. Target integrated post-management reports to DWPA (H)
6. Adopt drinking water protection overlay zone (H)
7. Inventory and rank chemicals used in the DWPA and prepare related reports (H)
8. Provide business assistance (H)
9. Continue to work with golf course managers (H)
10. Continue to monitor sewer lines (H)

Management Strategies Pertaining to Lane County

Incorporate proposed Aquifer Protection Plan into Drinking Water Protection Plan (DWPP) prepared by the Lane County Board and approved by the Comprehensive Planning Board and the Drinking Water Protection Board (DWPB) in the drinking water protection plan and policy manual.

Coordinate with Lane County and County Water District (CWD) to develop a local ordinance for drinking water protection. DWPP and DWPB will coordinate with the County to develop a local ordinance for drinking water protection. County will develop a local ordinance for drinking water protection in the City and DWPB.

Coordinate with the County to develop a local ordinance for drinking water protection in the City and DWPB will coordinate with the County to develop a local ordinance for drinking water protection in the City and DWPB.

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Proposed Comprehensive Plan Policies - I

Policies (yellow- Lane County + City) (Red- local option)

1. The City shall implement the recommendations of the Groundwater Management Plan regarding protection of the aquifer for the City's wellfield.
2. The City shall implement the 2013 *Aquifer Protection Plan for the North Florence SpM Source District Aquifer (Aquifer Protection Plan)*, as amended and certified by the Oregon Department of Environmental Quality (DEQ), and the Oregon Health Authority (OHA). The Aquifer Protection Plan shall be implemented by the policies in this Comprehensive Plan; Florence City Code provisions, including a Drinking Water Protection Overlay Zone; and City programs, as resources allow.

Proposed Comprehensive Plan Policies - II

Policies (yellow- Lane County + City) (Red- local option)

3. All portions of the *Water Protection Plan* except the *Contingency Plan*, if adopted as a supplement to the Comprehensive Plan, and the *Plan* will be located in Appendix 5 of the Comprehensive Plan.
4. The *Co-Man Wellhead Delimiting Region (Delimiting Report)*, February 2012, prepared by CBI Water Services, Inc. and certified by the Oregon Health Authority, is adopted into the Comprehensive Plan and is hereby located in Appendix 6. The Delimiting Report includes all Time of Travel Zones (TOTZ), shall serve as the primary water source inventory for the City of Florence. The maps in the *Delimiting Report* and *Drinking Water Protection Areas (DWPA)* for the existing and proposed wells in the region shall be included in the Comprehensive Plan. The City shall use the map of the designated DWPA for the proposed wellfield as the primary map for the Drinking Water Protection Overlay Zone.

Proposed Comprehensive Plan Policies - III

Policies (yellow- Lane County + City) (Red- local option)

5. The DWPA, including all time of travel zones (TOTZ), for the existing wellfield is a significant ground water resource as that term is defined by Statewide Planning Goals. The DWPA, including all Time of Travel Zones (TOTZ) for the proposed wellfield shall be protected through application of Statewide Planning Goal 2, Land Use, Goal 4, Air, Water, and Land Resource Quality, and Goal 11, Public Facilities and Services.
6. Post-closing sale or replacement, applicable to Lane County shall request the City to inform the County regarding whether municipal wastewater services, physically and legally available, as those terms are defined in OAR 340-071-0100, are available to the City. Post-closing sale or replacement shall be in compliance with Goal 4, Air, Water, and Land Resource Quality, and Goal 11, Public Facilities and Services.

Proposed Comprehensive Plan Policies - III

Policies (yellow- Lane County + City) (Red- local option)

7. Consistent with policies in this Comprehensive Plan, the City shall implement state law that requires the City to provide municipal wastewater services and the time of travel zones for the proposed wellfield is applied to the municipal wastewater system, and legally available, as those terms are defined in OAR 340-071-0100, are available to the City. Post-closing sale or replacement shall be in compliance with Goal 4, Air, Water, and Land Resource Quality, and Goal 11, Public Facilities and Services.
8. As part of the land use review process under the *Secretary's Best Agreement for Planning Cooperation between the City of Florence and Lane County*, the County and the City shall work cooperatively to encourage the use of *Drinking Water Protection Areas (DWPA)* by commercial and industrial development in the 25 percent of Travel Zones for the proposed wellfield. The City will respond to the request for development in the area by providing information to the City of Florence, Lane County, and the Oregon Health Authority that may be appropriate for the proposed land use. If well located.

Proposal Description: Exhibit B

Proposed Legislative Amendments to the Florence Realization 2020 Comprehensive Plan for:

1. Aquifer Protection

www.florence-sc.gov

Purpose and Objectives

1. Bring the City into compliance with Statewide Planning Goal 5 (Natural Resources, Scenic & Historic Areas & Open Space)
2. Update the 1997 Florence Wetlands and Riparian Area Inventory (1997 Inventory)
3. Provide a comprehensive functional assessment of wetlands and riparian areas
4. Protect significant resources primarily for water quality and flood control, and address existing uses through a Land Use Protection Program
5. Modify existing City Code requirements to:
 - benefit the Florence environment;
 - respect the rights of property owners;
 - address the need to provide public utilities.



Florence Freshwater Wetlands

Goal 5 Process

- STEP 1:** Inventory wetlands greater than 1/2 acre in size for Local Wetland Inventory (LWI)
- STEP 2:** Assess grouped wetlands for functions and values and determine significance.
- STEP 3:** Adopt local protection measures.

Local Wetland and Riparian Inventory



- Florence Area Wetlands Inventory replaces LWI in Statewide Wetlands Inventory (SWI) - refines and updates current inventory.
- City and County to adopt Florence Area Wetlands and Riparian Inventory for area within UGB – to comply with State Goal 5.

Florence Freshwater Wetlands Inventory

34 grouped wetlands greater than one-half acre, in 620 total acres:

- 60% Forested Wetlands
- 21% Scrub Shrub Wetlands
- 10% Emergent Wetlands
- 8% Unconsolidated Bottom
- 1% Other



Florence Freshwater Wetlands Assessment

HYDROLOGIC FUNCTION (FLOOD CONTROL): Water Storage and Delay

WATER QUALITY: Sediment Retention and Stabilization, Phosphorus Retention, Nitrate Retention & Retention, Thermoregulation

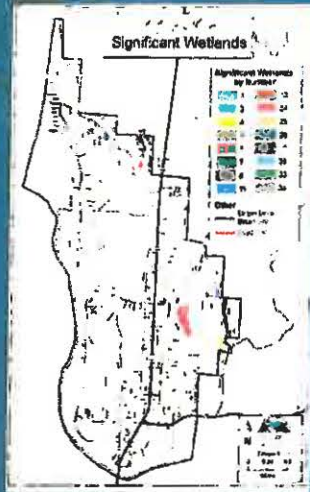
FISH SUPPORT: Anadromous & Non-anadromous Fish Habitat

AQUATIC HABITAT: Ozonid, Macro Invertebrate, Aquatic Invertebrate Habitat, Amphibian & Reptile Habitat, Waterbird Feeding Habitat, Waterbird Nesting Habitat

TERRESTRIAL HABITAT: Ground Squirrel, Raptor, Mammal, & Pollinator Habitat, Native Plant Diversity



Significant Wetlands in the Florence UGB



Riparian Areas

Goal 5 Process

- Step 1: Inventory - Determine riparian widths – typical tree height or topographic break
- Step 2: Assess riparian functions – water quality, flood management, thermal regulation, and wildlife habitat
- Step 3: Determine significance
- Step 4: Adopt protection measures



Riparian Areas Inventory

The riparian corridors in the Florence UGB were divided into 17 riparian reaches in the following 5 basins:

- Munsel Creek
- Rhododendron Drive
- Airport
- Hecele Beach
- North Fork Siuslaw



Riparian Areas Inventory

Goal 5 allows for either a "safe harbor" or "standard" inventory approach.

A 50 foot "safe harbor" riparian width was used for Munsel Creek, the only fish bearing stream in the inventory.

The standard inventory approach was used for the other reaches.



Riparian Areas Assessment

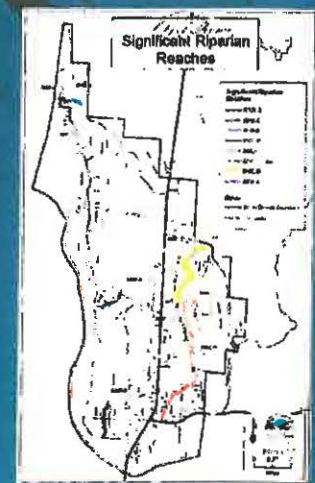
WATER QUALITY - riparian vegetation traps sediment, filters runoff, and binds soil to prevent erosion

FLOOD MANAGEMENT - vegetation slows rate of storm runoff and increases groundwater recharge

THERMAL REGULATION - trees and herbaceous layers provide shade and add humidity, cooling the water and providing important habitat for juvenile fish

WILDLIFE HABITAT - riparian trees, vegetation provide cover and woody debris provide habitat for wildlife that may use a water resource

Significant Riparian Reaches in the Florence UGB



Wetlands and Riparian Corridors Protection

Options in State Law:

- **SAFE HARBOR** - uses wetlands and riparian corridors that meet local wetland and riparian standards to allow some development of property located adjacent to wetlands.
- **ESEE** - Susceptible to wetland and riparian. Economic, Social, Environmental, and Energy Consequences Analysis. Wetlands and riparian corridors are identified and mapped for protection and avoidance.
- **COMBINED APPROACH** - use the harbor to protect the riparian corridors. A 50-foot riparian setback is required for some wetlands of local value.

Wetlands and Riparian Corridor Protection

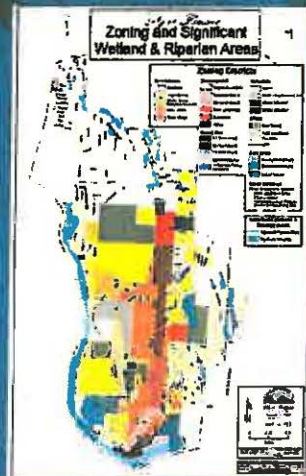
Combined approach proposed:

- **SAFE HARBOR** - use wetlands and riparian corridors that meet local standards to allow some development of property adjacent to wetlands and riparian corridors.
- **ESEE** - use wetlands and riparian corridors that meet local standards to allow some development of property adjacent to wetlands and riparian corridors.

ESEE Analyzes the Economic, Social, Environmental, & Energy consequences of three options:

1. Full Protection
2. Limited Protection
3. Full Development

The ESEE addresses resource protection conflicts with existing and future land uses.



Limited Protection Program Implemented in City Code - ESEET 17

Applies the "safe harbor" protections in Goal 5 to all significant wetlands and riparian areas with the following modifications based on the ESEE (Economic, Social, Environmental, and Energy Consequences) Analysis:

- Exempts public facilities from Significant Wetland Standards
- Allows up to a 50% reduction in the required riparian setback, to a 25-foot minimum setback, for the Municipal Creek side channel (Reach RMP-C6) as long as displaced native plants are replanted.

*Goal 5 already exempts public and private utilities and facilities from riparian setback requirements.

Wetland and Riparian Comprehensive Plan Amendments

City to adopt:

- 2013 Wetlands and Riparian Inventory for area within UGB, adopted as part of the Comprehensive Plan
- 2013 City of Florence Significant Wetlands and Riparian Corridor Plan to be adopted as supporting document to the Comprehensive Plan (amended to City Code only)
- Comprehensive Plan policies to protect resources and for wetlands and riparian corridors.

Wetland and Riparian Comprehensive Plan Amendments

County to Develop:

- 2013 Wetlands and Riparian Inventory for area within UGB, adopted as part of the Comprehensive Plan
- 2013 City of Florence Significant Wetlands and Riparian Corridor Plan to be adopted as supporting document to the Comprehensive Plan (amended to City Code only)
- Comprehensive Plan policies to protect resources and for wetlands and riparian corridors
- 2013 City of Florence Significant Wetlands and Riparian Corridor Plan to be adopted as supporting document to the Comprehensive Plan (amended to City Code only)
- Comprehensive Plan policies to protect resources and for wetlands and riparian corridors

Wetland and Riparian Comprehensive Plan Amendments

Policies (yellow- Lane County + City) (Red- local option)

Note: the following edits combine redundant policies in the adopted Comprehensive Plan for wetland and riparian areas and propose amendments.

1. For the purpose of land planning and other wetland and riparian identification within the Florence Urban Growth Boundary (UGB), the City and Lane County shall rely on the 2013 Florence Area Local Wetland and Riparian Area Inventory (2013 Inventory) approved by the Oregon Department of State Lands, as amended hereafter. The 2013 Inventory will meet the UGB, as amended, as adopted as part of the Comprehensive Plan and is hereby found in Appendix 5.

Wetland and Riparian Comprehensive Plan Amendments

Policies (yellow- Lane County + City) (Red- local option)

2. Disturbance of significant wetlands for land development activities shall be permitted within the Florence UGB only as defined by the permitted provisions of permits issued by the Department of State Lands (DSL) and/or the Army Corps of Engineers.
3. In accordance with ORS 215.418, the City and County shall notify DSL when wetlands are present on a property and a project on local land use or building permit approval. The City shall notify the applicant of the presence of wetlands on the property and shall require the applicant to obtain a permit from DSL.

Wetland and Riparian Comprehensive Plan Amendments

Policies (yellow- Lane County + City) (Red- local option)

4. The City and County shall consider formal wetland delineation reports approved by the Oregon Department of State Lands as a valid source of wetland information for UGAs and UGBs and other limited land use action. Such reports, if approved by DSL, will be incorporated by reference into the City + 200 (Florence Area Local Wetland and Riparian Inventory).
5. No significant wetland or riparian corridors, defined by the 2013 Florence Area Local Wetland and Riparian Inventory shall be drained by re-routing of natural drainage ways.

Wetland and Riparian Comprehensive Plan Amendments

Policies (yellow- Lane County + City) (Red- local option)

6. The City shall protect the functions and values of significant local riparian corridors and wetlands for flood control, water quality, and fish and wildlife habitat through Code provisions that protect these resources from development in accordance with statewide Planning Code 5 administrative rules (OAR 600 Division 25) and the Florence Urban Growth Boundary (UGB) ESEF Analysis and Local Riparian Inventory. The ESEF Analysis includes the significant wetlands and riparian corridors identified and mapped in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan, applied by reference into the Comprehensive Plan. The Program exempts public infrastructure, as defined in the ESEF Analysis, from local wetland protection measures. <https://www.lane.gov/development-services/2013-ugb-e-sef-analysis>, <https://www.lane.gov/development-services/2013-ugb-e-sef-analysis>, and <https://www.lane.gov/development-services/2013-ugb-e-sef-analysis>.

Wetland and Riparian Comprehensive Plan Amendments

Policies (yellow- Lane County + City) (Red- local option)

7. The City shall include a procedure in the Code to consider hardship variances, claims of map error, and modification or removal of the restrictions for any existing lot or parcel determined to have been rendered unbuildable by application of the significant wetland and riparian area standards in the Code.
8. The City shall require that wetlands be protected by measures to avoid, minimize and compensate for impacts from activities and development. Such measures shall be consistent with the UGB and the State's Best and Water Conservation Practices.

Unbuildable Definition (City + County)

- a) For single-family housing, lots are considered unbuildable if the required setback for the significant wetland or riparian area is such that no contiguous space exists outside the setback that allows for a dwelling unit (at least 50 feet by 27 feet) (Note: a 50-foot by 27-foot area allows the siting of a typical double-wide manufactured home, a form of affordable housing).
- b) For all affected properties, lots are deemed unbuildable if strict adherence to the applicable setback standards and conditions would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.
- c) For the Mussel Creek side channel (Reach R14C-D) in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive Plan, the 140-foot setback for the purpose of the unbuildable definition, if its reduced setback allowed through the ESEF Analysis adopted into the Comprehensive Plan Appendix 5.

Wetland and Riparian Comprehensive Plan Amendments

Policies (City + County – *see Exhibit B*)

- 1. This Amendment Option may occur on property affected by the Wetland/Wetlands and Riparian Areas, located in City Code 2. Authority for a Quasi-judicial application is an amendment. The amendment shall be based on a specific development proposal. The effect of the amendment shall be to minimize the environmental impacts on these resources from all of a kind of the property. The applicant shall demonstrate that such an amendment is justified by site specific environmental, social, economic and energy ESSE assessments as analyzed prepared in accordance with OAR order 009. When application is approved by the ESSE analysis shall be incorporated by reference into the Florence Comprehensive Plan, Wetland/Riparian Guidelines and Wetland and Riparian Areas Maps shall be amended to remove the Wetland and Riparian Areas from the property. (*see Exhibit B*)

Conclusion: Exhibit B

City of Florence and Lane County Planning Commissions:

The proposed legislative amendments to the Comprehensive Plan in **Exhibit B** are consistent with the Florence Riparian Area Comprehensive Plan, Florence City Code, Lane County Rural Comprehensive Plan, State Code, Oregon Rules and Statutes, and Statewide Planning Goals, and all pertinent Administrative Orders.

Requested Action: Exhibit B

Recommend adoption of the Comprehensive Plan amendments in Exhibit B to the Florence City Council / City and County Board of Commissioners (County) subject to the following conditions of approval:

- 1. Prior to adoption, the 2011 Wetlands and Riparian Authority is operating by the Oregon Department of State Lands (DSL) and includes any modification approved by DSL to respond to property owner requests.

EXHIBIT C Continuation of City Public Hearing

Proposed Amendments to the Florence City Code for:

1. **Aquifer Protection (Quasi-judicial Amendments)**
2. **Wetlands and Riparian Corridors (Legislative Amendments)**
3. **Housekeeping Amendment (Legislative Amendment)**

Proposed Description: Exhibit B Continuation of City Public Hearing

Proposed Amendments to the Florence City Code for:

1. **Aquifer Protection (Quasi-judicial Amendments)**
 - a. Adopt a new Drinking Water Protection Ordinance, City Code 2.02, Municipal Ordinance 2011-01.
 - b. Amend Florence Ordinance 11-01, Zoning Requirements, and add the Oregon Department of State Lands Riparian Areas Order.

Public Comments: Exhibit C

- A. Comments from Bill Black will be used to determine priority owner restoration and maintenance of riparian areas.
- B. Changes recommended to Exhibit B will be used in presentation of wetland and riparian areas.

Condition of Approval to Respond to Public Comments - Exhibit C

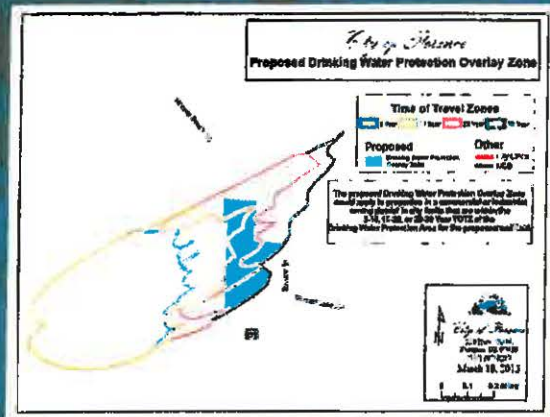
Recommend adoption of the Florence City Code amendments in Exhibit C to the Florence City Council subject to the following condition of approval:

The Exhibit C contain the changes to the Code necessary to protect the City's drinking

Rationale: In response to Florence citizen Bill Blackwell, staff further researched the proposed Code and found that additional provisions are necessary for clarification and consistency regarding the removal of native plants within the required buffer zones.

EXHIBIT C - Proposed City Code Amendments Groundwater Resources

Drinking Water Protection Overlay Zone for industrial and commercial uses in DWPA for Proposed Wellfield



To apply to industrial and commercial uses in DWPA for Proposed Wellfield inside City Limits.

Proposed Drinking Water Protection Overlay Zone

Objectives:

1. Protect the City's drinking water supply, which is obtained from groundwater resources, from impacts by facilities that store, handle, treat, use, produce, or otherwise have on premises substances that pose a hazard to groundwater quality, and
2. Provide standards for hazardous or other materials that pose a risk to groundwater within the TOTZ.

Proposed Drinking Water Protection Overlay Zone

Methods:

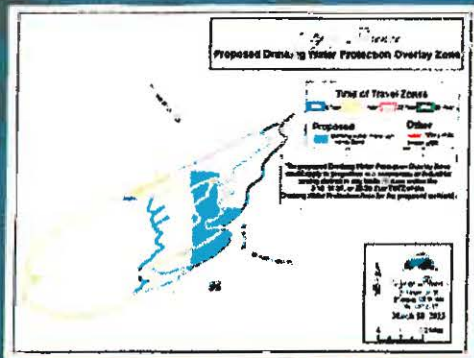
1. Restrict or prohibit the use of hazardous or other materials which are potential groundwater contaminants
2. Set standards for the storage, use, handling, treatment, and production of hazardous or other materials that pose a risk to groundwater within TOTZ, and
3. Review new or expanded uses of hazardous or other materials that pose a risk to groundwater.

Draft Drinking Water Protection Overlay Zone

A DWP Overlay District Development Application would be required when all of the following criteria are met:

1. Industrial and commercial land uses that are affected by one or more of the following: land use permit application, or building permit application that
2. Affect the storage, use, and/or production of hazardous or other materials that pose a risk to groundwater, or increase the quantity of hazardous or other materials that pose a risk to groundwater that are stored, used and/or produced.

Drinking Water Protection Overlay Zone



Standards vary by Time of Travel-Zone (TOTZ).

Draft Drinking Water Protection Overlay Zone

20-30 Year Time of Travel Zone:

1. Storage, handling, treatment, use, production or keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater allowed only upon compliance with Fire Code.

Draft Drinking Water Protection Overlay Zone

10-20 Year Time of Travel Zone:

1. Same requirements as for 20-30 Year TOTZ plus
2. Store in areas with approved secondary containment in place (Fire Code);
3. All new use of DNAPLs is prohibited.
4. Any change in type of use or increase in max. daily inventory of any DNAPL is considered a new use and is prohibited.
5. Requirements for inspection and record keeping procedures for monthly in-house inspection and maintenance of containment and emergency equipment.

Draft Drinking Water Protection Overlay Zone

5-10 Year Time of Travel Zone:

1. Same requirements as for 10-20 Year TOTZ plus
2. The following that pose a risk to groundwater are prohibited: hazardous material product pipelines, injection wells except roof dry wells, fill materials containing hazardous materials, land uses and new facilities that will use, store, treat, handle, and/or produce DNAPLs.
3. Requirements in Fire Code for a monitoring program and methods to detect hazardous or other materials in the secondary containment system shall be met for all amounts of hazardous materials that pose a risk to groundwater.

Proposal Description, Exhibit C Continuation of City Public Hearing

Proposed Amendments to the Florence City Code for

2. Wetlands and Riparian Corridors (Legislative Amendments):
 - a. Amend Florence City Code Title 10 Chapter 7: Special Development Standards to add a new section 10-7-4 Development Standards for Wetlands and Riparian Areas, and renumber sections sequentially.
 - b. Consistency Amendments: Amend FCC Title 9 Chapter 5 stormwater management definitions and buffer zone provisions; Title 10 Chapter 7 Definitions; and Title 10 Chapter 13 Prime Wildlife District, for internal Code consistency and for consistency with state law.
3. Housekeeping Amendment (Legislative Amendment)
 3. Allow an amendment to FCC Title 10 Chapter 19 to make the Code consistent with Statewide Planning Goal 15.

City Code applies to "significant" wetlands and riparian reaches within city limits.



Limited Protection Program

Will provide for the following adjustments to required setbacks as necessary to allow some economic use of property:

- Administrative review will be used for hardship where proposed development is more than 20 feet from the significant creek or wetland.
- A Hardship Variance will be allowed when proposed development is 20 feet or less from a significant creek or wetland; intrusion into the riparian area must be minimized, and, displaced native vegetation replanted. Variance fee waived for Coast Village.

Limited Protection Program

Will provide for the following adjustments to required setbacks as allowed by Goal 5:

- No land use permit will be required when existing lawfully constructed structures are rebuilt as long as replacement of existing structures is with structures in the same location that do not disturb additional riparian surface area and provided they are designed and constructed to minimize intrusion into the riparian area. Coast Village structures are grandfathered.

Limited Protection Program

Will provide for the following adjustments to required setbacks to address conflicting uses along Munsel Creek Side Channel:

- Administrative Review will be used for Munsel Creek side channel owners to obtain the setback reduction (up to 25 feet from the creek).
- Florentine Estates properties that were granted a setback reduction by the Planning Commission do not need to apply for an adjustment.

ESEE Analysis

Munsel Creek Side Channel: Reach RMC-Cs



Proposed Code Amendments

- Protect significant wetlands and riparian areas inside City limits.
- Provide for setback adjustments to allow some economic use of property.
- Provide exemptions allowed by State law and through ESEE for public infrastructure and Munsel Creek Side Channel.
- Provide for setback adjustments to be processed through Administrative Review except when proposed development is within 20 feet of a significant wetland. Then, Variance process is used.
- Apply existing stormwater buffer zones to significant riparian areas and significant wetlands. (acre and target vs. all water covered riparian areas in existing Code)
- Repeal Ordinance to encourage protection of the resource.
- Propose a Plan Amendment Option for specific sites of future development.
- Specify how boundaries of wetlands and riparian areas are determined.

Changes to EXHIBIT C

Changes to EOC 10.074 to cross-reference EOC Title 10 Chapter 6 – Vegetation Clearing Permit, & for internal consistency.

Changes to EOC 14.01 to cross-reference EOC 10.074 for internal consistency, and for the use approval process from Planning Commission to Administrative Review.

Conclusion: Exhibit C

City of Florence Planning Commission:

The proposed legislative and quasi-judicial amendments to the City Code in **Exhibit C** are consistent with the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes, and Statewide Planning Goals and associated Administrative Rules.

Requested Action: Exhibit C

Recommend adoption of the Florence City Code amendments in Exhibit C to the Florence City Council, subject to the following condition of approval:

That Exhibit C contain the changes to proposed Code presented at tonight's meeting.