

CITY OF FLORENCE ~ LANE COUNTY
JOINT PLANNING COMMISSION MEETING
FLORENCE CITY HALL COUNCIL CHAMBERS
250 Highway 101, Florence OR 97439

May 7, 2013

AGENDA

7:00 pm

City of Florence Planning Commission

Cheryl Hoile, Chairperson Curt Muilenburg, Vice-Chairperson
Alan Burns, Commissioner John Murphey, Commissioner Robert Bare, Commissioner

Lane County Planning Commission

Ryan Sisson, Chairperson Robert Noble, Vice Chairperson, Dennis Sandow, Commissioner
George Goldstein, Commissioner Nancy Nichols, Commissioner James Peterson, Commissioner
John Sullivan, Commissioner Larry Thorp, Commissioner

~ CALL TO ORDER ~ ROLL CALL ~ PLEDGE OF ALLEGIANCE ~

1. APPROVAL OF AGENDA

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.*

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.

~ ADJOURNMENT OF LANE COUNTY PLANNING COMMISSION MEETING ~

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.
5. CALENDAR
- Tuesday, May 14, 2013 – Regular Session, 7:00 pm at City Hall
 - Tuesday, May 28, 2013 – Regular Session, 7:00 pm at City Hall

The meeting location is wheelchair accessible.

Anyone requiring special accommodations, please call (541) 997-8237 at least 48 hours prior to the hearing

PUBLIC HEARING PROCEDURE

The Planning Commission must make its decision based on facts. Prior to the hearing, 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 based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request more time to present additional evidence, arguments or testimony regarding the application.

- A. Open Hearing
 - *Planning Commissioners declare any conflicts of interest, bias, ex-parte contacts and site visits.*
 - *Public may challenge a Commissioner's impartiality in making the decision.*
- B. Staff Report
- C. Applicant's Presentation
- D. Testimony

The Planning Commission will hear testimony from those in favor of the proposal, those against the proposal, and those that are neutral but have a comment. Copies of written testimony submitted for the hearing have been distributed to the Planning Commission. When you go to the table to testify, sign in (please write legibly) and state your name. If someone has made statements with which you agree, please come forward, sign in and just state that you agree with those comments. You do not need to restate the previous comments.

 - Proponents
 - Opponents
 - Neutral – Interested Persons
 - Rebuttal from Applicant
- D. Staff Response and Recommendation
- E. Close of Hearing
- F. Commission Deliberation - Direction to Staff or Decision
- G. 1st and 2nd on Motion
- H. Applicant's Opportunity to Respond to any New Conditions of Approval
- I. Discuss and Vote on Motion

**Resolution PC 13 03 CPA 01 & PC 13 04 TA 01 & PC 13 05 ZC 01
Florence Planning Commission**

A RESOLUTION TO RECOMMEND CITY COUNCIL ADOPTION OF AMENDMENTS TO THE FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN ("COMPREHENSIVE PLAN") AND FLORENCE CITY CODE (FCC) FOR AQUIFER PROTECTION AND WETLANDS AND RIPARIAN CORRIDORS; AND AMENDMENTS FOR HOUSEKEEPING AND INTERNAL CONSISTENCY

WHEREAS, Florence City Code (FCC) Title 10, Chapter 1, Section 1-3-B provides that a quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by motion of the City Council; and FCC 10-1-3-C provides that legislative changes to the Code or Comprehensive Plan may be initiated by a request of the Council to the Planning Commission that proposed changes be considered by the Commission and its recommendation returned to the Council;

WHEREAS, the City of Florence was awarded an EPA grant for the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0) in 2009 and the EPA amended the work plan for the grant in September 2012; and the work plan, as amended includes an adoption process for comprehensive plan and code amendments for aquifer protection and wetlands and riparian corridors;

WHEREAS, the City Council and Planning Commission held a joint Work Session on April 15, 2013 and the City Council initiated amendments to the Florence Realization 2020 Comprehensive Plan and Florence City Code for aquifer protection and wetlands and riparian corridors and for housekeeping and internal consistency;

WHEREAS, on September 10, 2012, the City Council approved the public outreach and adoption process for the Partnership grant products, including the use of a joint City-Lane County adoption process for comprehensive plan amendments; the Lane County Board of Commissioners approved the use of the joint adoption process on October 17, 2012;

WHEREAS, the City Council provided policy direction on protection measures for wetlands and riparian on July 16 and September 10, 2012; and the City Council conceptually approved the Aquifer Protection Plan (Plan) for the North Florence Sole Source Aquifer on July 16, 2012; and the Lane County Board of Commissioners conceptually approved the Aquifer Protection Plan on July 25, 2012;

WHEREAS, changes are needed to the Comprehensive Plan and City Code to implement and adopt the Plan and protection measures, as amended, and make these documents mutually consistent and compliant with State Administrative Rules and Statewide Planning Goals;

WHEREAS, additional changes are needed to the Comprehensive Plan and Florence City Code in order to achieve the following objectives:

1. Protect the North Florence Sole Source Dunal Aquifer, the city's sole drinking water source, by
 - adopting and implementing an Aquifer Protection Plan, with source water components certified by the Oregon Department of Environmental Quality (DEQ);
 - basing management strategies on potential sources of contamination; and
 - using updated wellhead delineations and drinking water protection areas.

2. Protect significant wetlands and riparian areas for their functions and values in controlling floods and protecting water quality in the aquifer and surface waters, and in protecting fish and wildlife habitat, consistent with the requirements of Statewide Planning Goal 5.

WHEREAS, a joint City-County Planning Commission public hearing was held on May 7, 2013 in Florence;

NOW THEREFORE, BE IT RESOLVED that the Planning Commission recommends to the City Council adoption of the **Florence Realization 2020 Comprehensive Plan** amendments in **Exhibit B** for Aquifer Protection, Wetlands and Riparian Corridors, and Housekeeping;

NOW THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission recommends to the City Council adoption of the **Florence City Code** amendments in **Exhibit C** for Aquifer Protection, Wetlands and Riparian Corridors, and for internal consistency and housekeeping.

PASSED BY THE FLORENCE PLANNING COMMISSION this ____ day of _____, 2013.

Cheryl Hoile, Chair

**DRAFT April 22, 2013
CITY OF FLORENCE
Ordinance No. 2, Series 2013**

AN ORDINANCE FOR THE ADOPTION OF AMENDMENTS TO THE FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN ("COMPREHENSIVE PLAN") AND FLORENCE CITY CODE (FCC) FOR AQUIFER PROTECTION AND WETLANDS AND RIPARIAN CORRIDORS; AND FOR HOUSEKEEPING AND INTERNAL CONSISTENCY; AND ADOPTING A SEVERABILITY CLAUSE.

WHEREAS, Florence City Code (FCC) Title 10, Chapter 1, Section 1-3-B provides that a quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by motion of the City Council; and FCC 10-1-3-C provides that legislative changes to the Code or Comprehensive Plan may be initiated by a request of the Council to the Planning Commission that proposed changes be considered by the Commission and its recommendation returned to the Council;

WHEREAS, the City of Florence was awarded an EPA grant for the Siuslaw Estuary Partnership (EPA Cooperative Agreement #WC-00J04801-0) in 2009 and the EPA amended the work plan for the grant in September 2012; and the work plan, as amended includes an adoption process for comprehensive plan and code amendments for aquifer protection and wetlands and riparian corridors;

WHEREAS, the City Council and Planning Commission held a joint Work Session on April 15, 2013 and the City Council initiated amendments to the Florence Realization 2020 Comprehensive Plan and Florence City Code for aquifer protection and wetlands and riparian corridors and for housekeeping and internal consistency;

WHEREAS, on September 10, 2012, the City Council approved the public outreach and adoption process for the Partnership grant products, including the use of a joint City-Lane County adoption process for comprehensive plan amendments; the Lane County Board of Commissioners approved the use of the joint adoption process on October 17, 2012;

WHEREAS, the City Council provided policy direction on protection measures for wetlands and riparian on July 16 and September 10, 2012; and the City Council conceptually approved the Aquifer Protection Plan (Plan) for the North Florence Sole Source Aquifer on July 16, 2012; and the Lane County Board of Commissioners approved the Aquifer Protection Plan on July 25, 2012 via Board Order 12-07-25-07;

WHEREAS, the Plan has been amended to address public comments and changes are needed to the Comprehensive Plan and City Code to implement and adopt the Plan and protection measures, as amended, and make these documents mutually consistent and compliant with State Administrative Rules and Statewide Planning Goals;

WHEREAS, additional changes are needed to the Comprehensive Plan and Florence City Code in order to achieve the following objectives:

1. Protect the North Florence Sole Source Dunal Aquifer, the city's sole drinking water source, by
 - adopting and implementing an Aquifer Protection Plan, with source water components certified by the Oregon Department of Environmental Quality (DEQ);
 - basing management strategies on potential sources of contamination; and
 - using updated wellhead delineations and drinking water protection areas.
2. Protect significant wetlands and riparian areas for their functions and values in controlling floods and protecting water quality in the aquifer and surface waters, and in protecting fish and wildlife habitat, consistent with the requirements of Statewide Planning Goal 5.

WHEREAS, on May 7, 2013, the Florence and Lane County Planning Commissions held a joint public hearing on the proposed Comprehensive Plan amendments and the Florence Planning Commission held a public hearing on the proposed Code amendments; deliberated; and recommended adoption of the proposed Comprehensive Plan and Code amendments; and all property owners directly affected by the proposals were mailed notice of the hearing and the hearing was posted to the City web site and advertised in the Siuslaw News;

WHEREAS, on [REDACTED], 2013, the City Council and Lane County Board of Commissioners held a joint public hearing on the proposed Comprehensive Plan amendments; and the Florence Planning Commission held a public hearing on the proposed Code amendments; and all those providing testimony were mailed notice of the hearing and the hearing was posted to the City web site and advertised in the Siuslaw News;

WHEREAS, on [REDACTED], 2013, the City Council deliberated at their meeting and found the proposed Comprehensive Plan and Code amendments consistent with applicable criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes, Oregon Administrative Rules, and Oregon Statewide Planning Goals.

THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. Adoption of Findings of Fact in Exhibit A;

Section 2. Adoption of the following **Florence Realization 2020 Comprehensive Plan** amendments in **Exhibit B** for:

I. Aquifer Protection:

1. Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer, March 14, 2013, as amended, except for the Contingency Plan (Aquifer Protection Plan);
2. "Certified Wellhead Delineations Report," (Delineations Report) February 2012, GSI Water Solutions, Inc., including Drinking Water Protection Area (DWPA) maps and all Time of Travel Zones for the existing wellfield and the proposed wellfield; and
3. Comprehensive Plan text amendments to protect the aquifer and for internal consistency.

II. Wetlands and Riparian Corridors:

1. 2013 Florence Area Local Wetland and Riparian Area Inventory, Pacific Habitat Services (2013 Inventory)
2. 2013 City of Florence Significant Wetlands and Riparian Corridors Plan, including:
 - a. 2013 Significant Wetlands Map and List of Goal 5 Locally Significant Wetlands, as amended
 - b. 2013 Significant Riparian Reaches Map and List of Goal 5 Locally Significant Riparian Corridors and Widths, as amended
 - c. ESEE Analysis for Public Facilities and Munsel Creek Side Channel
 - d. Limited Protection Program
3. Comprehensive Plan text amendments for internal consistency and housekeeping

Section 3. Adoption of the following **Florence City Code** amendments in **Exhibit C** for:

I. Aquifer Protection:

- a. A new FCC Title 10 Chapter 32: Drinking Water Protection Overlay District; and
- b. City of Florence Drinking Water Protection Overlay Zoning Map

II. Wetlands and Riparian Corridors:

- a. Amendments to Title 10 Chapter 7 to add a new code section FCC 10-7-4 Development Standards for Wetlands and Riparian Areas and related amendments to FCC 10-7; and
- b. Code amendments for consistency and housekeeping

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. and such holding shall not affect the validity of the remaining portions hereof.

FURTHER, although not part of this Ordinance except as described above, the Florence City Council adopts the Contingency Plan in Chapter 5 of the Aquifer Protection Plan.

Adopted by the Florence City Council this _____ day of _____, 2013.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED BY THE MAYOR, this _____ day of _____, 2013.

Nola Xavier, MAYOR

ATTEST: _____
Kelli Weese, City Recorder

**STAFF REPORT & FINDINGS
FLORENCE PLANNING DEPARTMENT
LANE COUNTY LAND MANAGEMENT
Joint Planning Commissions**

Joint Hearing Date: May 7, 2013
Date of Report: April 22, 2013

Planning Consultant: Carol Heinkel
City: Kelli Weese, Interim Planning Director
Lane County: Keir Miller, Senior Planner

Application: PC 13 03 CPA 01, PC 13 04 TA 01, PC 13 05 ZC 01 (City)
PA13-0582 (LC)

I. PROPOSAL DESCRIPTION

PROPOSALS:

- 1. JOINT CITY-COUNTY PUBLIC HEARING:** Recommend to the City Council and Lane County Board of Commissioners adoption of legislative amendments to the Florence Realization 2020 Comprehensive Plan ("Comprehensive Plan") for aquifer protection and wetlands and riparian corridors and for housekeeping and internal consistency (**EXHIBIT B**)
- 2. CITY PUBLIC HEARING (CONTINUATION):** Recommend to the City Council adoption of legislative amendments to the Florence City Code (FCC) for wetlands and riparian corridors and for housekeeping and internal consistency; and quasi-judicial amendments to City Code for aquifer protection (**EXHIBIT C**)

■ EXHIBIT B – Joint City-County (Attached)

Proposed Legislative Amendments to the Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013

The proposed Comprehensive Plan amendments in Exhibit B are as follows:

1. Aquifer Protection

- a. Amend Florence Comprehensive Plan Chapter 5 to protect groundwater resources for consistency with state law and to adopt the Aquifer Protection Plan.
- b. Consistency Amendments: Amend Comprehensive Plan Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.

2. Wetlands and Riparian Corridors

- a. Amend Florence Comprehensive Plan Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources for consistency with Statewide Planning Goal 5, including adoption of the 2013 Florence Area Wetlands and Riparian Inventory (2013 Inventory) and 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan).
- b. Consistency Amendments: Amend Florence Comprehensive Plan Chapter 1, Definitions and Chapter 11, Utilities, Facilities, and Services for consistency with the proposed amendments.

3. Housekeeping Amendment

- a. Amend Comprehensive Plan Chapter 1, Introduction, to make the Comprehensive Plan consistent with state law which changed the DLCD notice requirement from 45 to 35 days.

■ EXHIBIT C – City Only (Attached)

Proposed Amendments to the Florence City Code for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013

The proposed Code amendments in Exhibit C are as follows:

1. Aquifer Protection (Quasi-judicial Amendments)

- a. Adopt a new Drinking Water Protection Overlay Zone (Overlay Zone) Map, attached to Exhibit C.
- b. Amend Florence City Code Title 10: Zoning Regulations to insert a new Chapter 32: Chapter 32 Drinking Water Protection Overlay District

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 1 Definitions, and Title 10 Chapter 19, Prime Wildlife District, for internal Code consistency and for consistency with state law.

3. Housekeeping Amendment (Legislative Amendment)

- a. Adopt an amendment to FCC Title 10 Chapter 19 to make the Code consistent with Statewide Planning Goal 16.

APPLICANT: City of Florence: Mike Miller, Public Works Director, Project Manager;
Planning Consultant: Carol Heinkel

PROPERTY OWNERS: See table below.

LOCATION:

- **Legislative amendments to Comprehensive Plan (Exhibit B):** Florence urban growth boundary (UGB)
- **Legislative amendments to City Code (Exhibit C):** Florence city limits
- **Quasi-judicial Code amendments (Overlay Zone):** At north end of city limits, east and west of Highway 101; specific properties listed below and shown in Overlay Zone Map (Exhibit C)

Quasi-judicial Code amendments (Overlay Zone):

Map & Taxlot Number:	Address:	Owners:
1812142001102	4701 HWY 101	Fred Meyer Stores
1812142001500	5055 HWY 101	Marvin and Neal Ryall
1812142001600	5071 HWY 101	Marvin and Neal Ryall
1812142001700	N/A Munsel Lake LLC	Munsel Lake LLC
1812142001900	5231 HWY 101	Johanna Pratte
1812142001201	4969 Hwy 101	James & Susan Genereaux
1812142001204	N/A	James & Susan Genereaux
1812142001205	N/A	Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians
1812142001206	N/A	Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians
1812142002000	N/A	John Sherman
1812142002100	5351 HWY 101	Dell Matthews
1812142001400	5045 HWY 101	Ocean Pacific Co. Inc
1812142001301	N/A	Sand Ranch Prop. LLC
1812142001303	4981 HWY 101	Dennis Fleming
1812142001302	N/A	Dennis Fleming
1812142001203	N/A	Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians
1812113301700	5491 HWY 101	Terrace Investments LLC II
1812113301603	N/A	Terrace Investments LLC II

Quasi-judicial Code amendments (Overlay Zone):

Map & Taxlot Number:	Address:	Owners:
1812142002200	5371 HWY 101	Erin Trebolo
1812113301602	5405 HWY 101	Twombly Investments LLC
1812113301600	N/A	Terrace Investments LLC II
1812113302000	N/A	Terrace Investments LLC II
1812142000500	N/A	Ohran Joint Revocable Trust
1812142000400	N/A	Ohran Joint Revocable Trust
1812142000600	N/A	Sunnyside McGill LLC
1812142000300	5240 HWY 101	Glen & Ellona Seifert
1812142000201	N/A	Luis Hector Morales Decedents Trust
1812142001800	N/A	Johanna Pratte

COMPREHENSIVE PLAN MAP DESIGNATIONS:

- **Legislative amendments to Comprehensive Plan (Exhibit B):** All Plan designations
- **Legislative amendments to City Code (Exhibit C):** All Plan designations
- **Quasi-judicial Code amendments (Overlay Zone) (Exhibit C):** North Commercial Node, Service Industrial

ZONE MAP CLASSIFICATIONS:

- **Legislative amendments to Comprehensive Plan (Exhibit B):** **City:** All Zoning Classifications in City; **Lane County:** Natural Resource (NR), Impacted Forest (F2); and Suburban Residential (RA)
- **Legislative amendments to City Code (Exhibit C):** All Zoning Classifications in City
- **Quasi-judicial Code amendments (Overlay Zone) (Exhibit C):** North Commercial; Service Industrial

SURROUNDING LAND USE/ZONING:

- **Legislative amendments to Comprehensive Plan (Exhibit B):** N/A
- **Legislative amendments to City Code (Exhibit C):** N/A
- **Quasi-judicial Code amendments (Overlay Zone) (Exhibit C):** north: mixed residential, industrial, vacant; west: vacant; east: vacant/residential; south: commercial.

II. NARRATIVE

Purpose and Objectives:

The purpose of this proposal is to protect and improve water quality and fish and wildlife habitat in the lower Siuslaw Watershed. Specific objectives are as follows:

1. Meet the requirements of EPA Cooperative Agreement #WC-00J04801-0 to submit for local adoption plans and Comprehensive Plan and Code amendments for Aquifer Protection and Wetlands and Riparian Corridors;
2. Bring the Florence Comprehensive Plan into compliance with Statewide Planning Goals for wetlands, riparian corridors, and groundwater resources;
3. Bring the Florence City Code into compliance with Statewide Planning Goals for wetlands, riparian corridors, and groundwater resources;
4. Make additional Comprehensive Plan and Code amendments for internal consistency and housekeeping.

Background

These Exhibits are products of the Siuslaw Estuary Partnership, funded by the US Environmental Protection Agency (EPA Cooperative Agreement #WC-00J04801-0), a grant awarded to the City of Florence by EPA on October 1, 2009. The mission of the Partnership is to protect and improve water quality and fish and wildlife habitat in the lower Siuslaw watershed. Submission to the City and County for adoption of Comprehensive Plan amendments, and to the City for adoption of Code amendments, to protect the North Florence Sole Source Dunal Aquifer and for Wetlands and Riparian Corridors satisfies the City's commitment to the EPA for these grant products.

Community concern for the Siuslaw estuary, the North Florence Sole Source Dunal Aquifer and the area's streams, lakes, and wetlands is well-documented in Comprehensive Plan policies and Code provisions. In response to this concern, in October, 2009, the City and its partners from 19 federal, state, tribal, and local agencies embarked on the multi-year Siuslaw Estuary Partnership project. This project is funded by project partners and the US Environmental Protection Agency (EPA). The Siuslaw Estuary Partnership Guiding Principles, endorsed by the City and its partners, provided guidance for these products. For more information about the Partnership, visit the web site at: www.SiuslawWaters.org.

Over the past three and a half years, there has been extensive public involvement in the project, including public open houses, stakeholder group meetings, study area-wide distribution of newsletters, newspaper articles, and targeted outreach to interest groups, property owners, and businesses. The public outreach process is documented in detail in Section V of this report (Findings for attached City Planning Commission Resolution PC 13 03 CPA 01, PC 13 04 TA 01, PC 13 05 ZC 01 and Lane County Ordinance No. PA 1299).

III. NOTICE AND REFERRALS

1. **NOTICE:** Notice of the proposed Comprehensive Plan Amendments was sent to DLCDC on March 21, not less than 45 days prior to the first (Planning Commission) evidentiary hearing as required by the Comprehensive Plan and not less than 35 days prior to the hearing as required by state law. The hearing was noticed in the

Siuslaw News on April 27 and May 1, 2013 as required by state law and the Florence Development Code.

Ballot Measure 56 Notice of the May 7, 2013 public hearing on City Ordinance No. 2, Series 2013 and Lane County Ordinance No. PA 1299 was sent on April 11th to owners of property in the urban growth boundary (UGB) with wetlands and riparian areas or within the Drinking Water Protection Areas (DWPAs) of the existing or proposed wellfield. In accordance with Florence City Code, adjacent property owners within 300 feet for the proposed Drinking Water Protection Overlay Zone were also sent notice on April 11, 2013 and notice was posted on properties within the proposed overlay zone.

2. **REFERRALS:** Referrals were sent to the Oregon Department of Transportation, Florence Police Department, Central Lincoln Public Utility District, Qwest, Charter Communications, Florence Public Works Department, Florence U.S. Postal Service, the Siuslaw Valley Fire and Rescue District, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Lane County Land Management, Lane County Transportation, Heceta Water District, Land Watch, and the staff representatives of the federal, state, and local agencies serving on the Siuslaw Estuary Partnership Inter-disciplinary Team. Notice was also sent to William Sherlock, who requested notice on behalf of this client.

IV. APPLICABLE CRITERIA

1. Realization 2020 Florence Comprehensive Plan

2. Florence City Code (FCC) Title 10: Zoning Regulations

Chapter 1: Zoning Administration, Sections: 10-1-1-5 Land Use Hearings; Section 10-1-2-2, Change of Boundaries on Zoning Map; 10-1-3 Amendments and Changes

3. **Oregon Revised Statutes:** ORS: 196.674; 197.175; 197.250; 197.251; 197.279(3)(b); 197.253; 197.610; 197.615; 215.418; 227.175; 227.186; 227.350

4. Statewide Land Use Planning Goals and Associated Administrative Rules:

Statewide Goals: 1: Citizen Involvement; 2: Land Use; 5: Natural Resources, Scenic and Historic Areas, and Open Spaces; 6: Air, Water and Land Resources Quality; 7: Areas Subject to Natural Hazards; 9: Economic Development; 10: Housing; 11: Public Facilities and Services; 12: Transportation; 16: Estuarine Resources; 17: Coastal Shorelands

Administrative Rules: OAR Chapter 660: Division 23 pertaining to wetlands, riparian, and groundwater resources and related provisions; Division 12; Division 15; Division 16; OAR Chapter 141 Division 86; OAR Chapter 333 Division 61; OAR Chapter 340 Division 40 and 71

5. Lane County Rural Comprehensive Plan Policies – Part 1, Section D; and Lane Code: 12.005, 12.050, 14.300, 16.400

V. FINDINGS

Applicable criteria are shown in bold and findings are in plain text below.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

Introduction:

Plan Adoption, Amendments, Review and Implementation

Amendments to the Plan may be initiated by citizens, citizen groups, the Citizen Advisory Committee, the Planning Commission or the City Council. In any amendment proceedings, the City Council shall obtain the recommendation of the Planning Commission and the Citizen Advisory Committee before taking action on a proposed major amendment. Minor changes which do not have significant effects beyond the immediate area of the change require the recommendation of the Planning Commission. Minor changes may be initiated at any time. Notice of a public hearing for a proposed plan amendment shall be required at least 45 days prior to the first Planning Commission hearing.

The proposal is consistent with this Comprehensive Plan text because:

- The proposal was initiated by City Council Resolution 3 Series 2013 on April 15, 2013;
- The Planning Commission made a recommendation to the City Council; and
- Notice of the public hearing was sent to DLCD at least 45 days prior to the date of the first Planning Commission hearing.

FLORENCE CITY CODE (FCC) TITLE 10: ZONING REGULATIONS

CHAPTER 1: ZONING ADMINISTRATION

SECTION 3: AMENDMENTS AND CHANGES

FCC 10-1-3-C: LEGISLATIVE CHANGES

- 1. Initiation: A legislative change in zoning district boundaries, in the text of this Title, Title 11 or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council.**

2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect. (Amd. by Ord. 30, Series 1990).

The proposal is consistent with the criteria in FCC 10-3-C because:

- Exhibits B and C, except for the Drinking Water Protection Overlay Zone Map and Text, are legislative changes to the Comprehensive Plan and Code, affecting a large number of properties with broad policy application;
- The City Council initiated the process by Resolution and set a date of May 7 for Planning Commission public hearing and recommendation;
- Notice of the public hearing was sent to DLCD at least 45 days prior to the first Planning Commission hearing; Ballot Measure 56 notice was sent, consistent with the Comprehensive Plan and state law.

FCC 10-1-3-B: QUASI-JUDICIAL CHANGES

- 1. Initiation: A quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by application of a property owner within the affected area, by a person having substantial ownership interest in the property, by resolution of the Planning Commission or motion of the City Council, and also by individual citizens or citizen groups during Plan update as provided in The Comprehensive Plan.**

- 3. Notice and Public Hearing: Notice and public hearing for quasi-judicial changes to this Code and the Comprehensive Plan shall be in accordance with Code Section 10-1-1-5.**

The proposal is consistent with the criteria in FCC 10-3-B, subsections #1 and #3 because:

- The Drinking Water Protection Overlay Zone is a quasi-judicial zone change initiated by the City Council;
- Notice of the proposed change was provided in accordance with Code Section 10-1-1-5:

FCC 10-1-1-5: LAND USE HEARINGS:

A. Hearings are required for quasi-judicial land use matters requiring Planning Commission review.

B. Notification of Hearing:

- 1. At least twenty (20) days prior to a quasi-judicial hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject**

property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

- a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.
- b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.
- c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).

2. Prior to a quasi-judicial hearing, notice shall be published one (1) time in a newspaper of general circulation.

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:

- a. Explain the nature of the application and the proposed use or uses which could be authorized;
- b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
- c. Set forth the street address or other easily understood geographical reference to the subject property;
- d. State the date, time and location of the hearing;
- e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;
- f. State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- g. State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;
- h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- i. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.

The proposal is consistent with these criteria because:

- the Planning Commission held a public hearing on the request;
- notice was posted on the subject property (Drinking Water Protection Overlay Zone) and sent to all owners of record of property within 300 feet of the subject property on April 11, more than 20 days before the public hearing on May 7;
- on April 27 and May 1, notice of the hearing was published in the Siuslaw News, a newspaper of general circulation, the last not more than ten (10) days prior to the date of the hearing;
- The notices met all of the above requirements for content and timing; and
- Notice consistent with ORS 227.186 was sent to the owners of property with a wetland or riparian area or within a Drinking Water Protection Area for the existing or proposed wellfield, as follows:

ORS 227.186 NOTICE TO PROPERTY OWNERS OF HEARING ON CERTAIN ZONE CHANGE; FORM OF NOTICE; EXCEPTIONS; REIMBURSEMENT OF COST.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

The proposal is consistent with ORS 227.186 because:

- On April 11, at least 20 days but not more than 40 days before the date of the Planning Commission hearing (first hearing) on the adopting ordinance to amend the Comprehensive Plan and Code, the City mailed a written individual notice to the owners of each of the properties potentially affected by the proposal;
- the notice described in detail how the proposed ordinance would affect the use of the properties;
- the notice contained the text required in ORS 227.186; and
- the proposal is to adopt an ordinance that will limit or prohibit land uses previously allowed in the affected zone.

FCC 10-1-2-2: CHANGE OF BOUNDARIES ON ZONING MAP: ...Amendments to the map (zone boundary changes) shall be indicated on subsequent maps, dated and filed with the map originally adopted. Each map shall bear the signature of the Planning Commission chairman who shall testify to their authenticity. (Amd. by Ord. 30, 1990).

The proposal is consistent with this provision because the Drinking Water Protection Overlay Zone map will be dated, filed with the City Zoning Map, and signed by the Planning Commission chairman.

OREGON REVISED STATUTES

ORS 197.610: LOCAL GOVERNMENT NOTICE OF PROPOSED AMENDMENT OR NEW REGULATION; EXCEPTIONS; REPORT TO COMMISSION.

(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be forwarded to the Director of the Department of Land Conservation and Development at least 35 days before the first evidentiary hearing on adoption. The proposal forwarded shall contain the text and any supplemental information that the local government believes is necessary to inform the director as to the effect of the proposal. The notice shall include the date set for the first evidentiary hearing.

The proposal is consistent with ORS 197.610 because notice to DLCD was sent on March 21, 2013, at least 35 days prior to the March 7, 2013 (first) Planning Commission public hearing and the notice contained the information required in this statute.

ORS 197.175: CITIES' AND COUNTIES' PLANNING RESPONSIBILITIES; RULES ON INCORPORATIONS; COMPLIANCE WITH GOALS.

(2) Pursuant to ORS Chapters 195, 196 and 197, each city and county in this state shall: (a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;

The proposal is consistent with ORS 197.175 because this staff report contains findings to conclude that the proposed comprehensive plan revisions are in compliance with the goals approved by the commission. A finding of "Not Applicable to this Proposal" is incorporated into these findings for all Statewide Planning Goals not specifically cited below.

ORS 197.615: SUBMISSION OF ADOPTED COMPREHENSIVE PLAN OR LAND USE REGULATION CHANGES TO DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

(1) When a local government adopts a proposed change to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the decision to the Director of the Department of Land Conservation and Development within 20 days after making the decision.

(2) The submission must contain the following materials:

(a) A copy of the signed decision, the findings and the text of the change to the comprehensive plan or land use regulation;

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;

(c) A brief narrative summary of the decision, including a summary of substantive differences from the proposed change submitted under ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department

of Land Conservation and Development) and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the actual change; and
(d) A statement by the individual transmitting the submission, identifying the date of the decision and the date of the submission.

The proposal is consistent with ORS 197.615 because when the city and county adopt the proposed change to an acknowledged comprehensive plan and the city adopts the proposed change to the FCC, the local governments shall submit the decision to the Director of the Department of Land Conservation and Development within 20 days after making the decision; and the submission shall contain the required materials.

ORS 197.253: PARTICIPATION IN LOCAL PROCEEDINGS REQUIRED FOR SUBMITTING COMMENTS AND OBJECTIONS

Notwithstanding the provisions of ORS 197.251 (Compliance acknowledgment) (2)(a), a person may not submit written comments and objections to the acknowledgment request of any city or county that submits its plan or regulations to the Land Conservation and Development Commission for acknowledgment for the first time after August 9, 1983, unless the person participated either orally or in writing in the local government proceedings leading to the adoption of the plan and regulations.

The proposal is consistent with ORS 197.253 because only persons participating either orally or in writing in the city and county proceedings leading to the adoption of the plan and regulations shall be eligible to submit written comments and objections to the approval of the amendments by the Department of Land Conservation and Development.

ORS 197.250 COMPLIANCE WITH GOALS REQUIRED

Except as otherwise provided in ORS 197.245 (Commission amendment of initial goals), all comprehensive plans and land use regulations adopted by a local government to carry out those comprehensive plans and all plans, programs, rules or regulations affecting land use adopted by a state agency or special district shall be in compliance with the goals within one year after the date those goals are approved by the Land Conservation and Development Commission.

The proposal is consistent with ORS 197.250 because it is consistent with applicable statewide planning goals, as demonstrated in the findings below.

STATEWIDE PLANNING GOALS AND ADMINISTRATIVE RULES

GOAL 1: CITIZEN INVOLVEMENT

- 3. Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.**

Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

The proposals are consistent with this Goal because citizens were provided the opportunity to be involved in all phases of the planning process as set out below.

- The Public Involvement Plan (PIP) for the Siuslaw Estuary Partnership was approved by the Florence Planning Commission on January 12, 2010 and is included as Appendix B of the Aquifer Protection Plan. Public involvement involved Technical Advisory Committees, Stakeholder Groups, and Public Education and Outreach.
- Technical Advisory Committees: The Siuslaw Estuary Partnership Inter-disciplinary Team served as the Technical Advisory Committee (TAC) for the plans and Trail Vision with additional agency staff added for specific products. These staff committees met regularly throughout the course of the project and recommended draft products to the Stakeholder Groups.
- Stakeholder Groups: The Florence City Council approved the use of two Stakeholder Groups for the Partnership: a Community Stakeholder Group and an Elected Official Stakeholder Group. The Community Stakeholder Group was expanded in order to include representative interests in the Drinking Water Protection Areas on the Group. Specifically, these interests were: Ocean Dunes Golf Links, Coast Village, Sand Ranch, Florentine Estates, Koning and Cooper business owners, and Recycling and Garbage. The Community Stakeholder Group met most recently on February 28, 2013 to review and comment on the draft products. The Elected Official Stakeholder Group met on March 14 and agreed by consensus with the products, as revised.
- Public Education and Outreach: In the fall of 2012, a targeted public outreach effort commenced on the draft Comprehensive Plan and Code amendments. This outreach included presentations, response to questions, and submission of comments on the draft proposals with the following groups:
 - Coast Village Homeowners Association: 10/29/12
 - Central Oregon Coast Board of Realtors: 11/29/12
 - Florence Area Chamber of Commerce: 2/21/13
 - Golf Course Owners/Managers: 2/25/13
 - Property owners within Drinking Water Protection Areas (DWPAs): 2/25/13
 - Property owners with wetlands or riparian areas: 2/27/13
- Letters were sent to the owners in DWPAs and with wetlands or riparian areas on February 8th inviting them to the meeting, informing them of the draft products, and instructing them on ways they can be involved. Revisions to the draft were made based on feedback from meetings with property owners and Stakeholders in February and March 2013 and further changes may be made as needed to respond to comments raised during the public adoption process.

- Public Education and Outreach also involved three Open Houses and three newsletters, “Waters in Common,” which were distributed throughout the UGB to residents, property owners, or both. Each of these newsletters provided information about the aquifer, wetlands and riparian areas, and the trail vision and the need to protect water quality. The third newsletter, distributed in April 2012, provided information about the draft plans and inventories and ways to provide comment. That newsletter was included in water bills and mailed directly to all owners of property in the DWPA’s. At the third Open House, the elements of the plans were presented in detail in the power point presentation and in hard copies available for the public. Comment forms were available, although no one submitted a completed form. Over 50 members of the public attended the April 30, 2012 Open House and heard the presentation.
- In addition, public involvement efforts were conducted specifically for wetlands and riparian areas. Prior to beginning the inventory field work, selected landowners (i.e. those suspected of having wetlands or waters of the state on their property) were mailed notices describing the project and asking permission to enter their property. Right of access was granted by landowner permission only. The properties of those not responding were not accessed. Access information was collected in a database and then transferred to a base map for use in the field. At the May 5, 2010 Open House, the public was informed about the wetland inventory process and staff answered questions from property owners deciding whether or not to grant access to their property. Following completion of initial fieldwork, a public meeting was held on September 22, 2010 to allow citizens to observe the location of mapped wetlands and comment as appropriate.
- On March 6, 2012, the Wetlands and Riparian Area Team concurred with criteria and application of the criteria for determining the significance of, and measures to protect, wetlands and riparian corridors in the Florence urban growth boundary (UGB). On January 31, 2013, the Wetland and Riparian Team reviewed and commented on the revised 2013 Plan and forwarded it for public review and adoption.
- At their meetings in March and April, the Stakeholder Groups forwarded this proposal to the public for comment. Then, the proposal was presented to the public at the April 30, 2012 Open House.
- All products and Stakeholder meeting packets have been posted to the project web site: www.SiuslawWaters.org and the public has been encouraged to review and comment.

GOAL 2: LAND USE

City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into con-

sideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents. The plans, supporting documents and implementation ordinances shall be filed in a public office or other place easily accessible to the public. The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governmental units.

All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

The proposals are consistent with Goal 2 because:

- The amendments to the Florence City Code for aquifer protection and wetlands and riparian areas, and the Drinking Water Protection Overlay Zone to protect the City's proposed wellfield, are consistent with the Comprehensive Plan for the City of Florence, as amended in this proposal;
- The proposed Comprehensive Plan amendments include identification of issues and problems related to aquifer protection and wetlands and riparian areas, inventories and other factual information for each applicable statewide planning goal, and evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs;
- The proposal amends the Comprehensive Plan to include the Aquifer Protection Plan, Florence Area Wetlands and Riparian Inventory, City of Florence Significant Wetlands and Riparian Corridors Plan in the plan document or in supporting documents. The plans, supporting documents and implementation ordinances shall be filed in the City of Florence Planning Office easily accessible to the public;
- These plans are the basis for the proposed City Code amendments, which are consistent with and adequate to carry out the plans, including the Drinking Water Protection Overlay Zone, which is consistent with the Drinking Water Protection Area for the proposed wellfield which is incorporated as part of the Comprehensive Plan through these amendments;
- The amendments to the Comprehensive Plan have been coordinated with and co-adopted by Lane County, the affected governmental unit; and
- The Comprehensive Plan amendments were adopted by the by the City and County and the Code amendments by the City after public hearings; after a review and with revisions that take into account changing public policies and circumstances; opportunities were provided for review and comment by citizens and affected governmental units during preparation, review and revision of the plans and implementation ordinances.

- The Consistency Code amendment to FCC 10-19-9 Prime Wildlife District make the Code consistent with the proposed Comprehensive Plan and Code amendments as well as Statewide Planning Goal 2 (Land Use) by relying on the most recent inventory and assessment data for determining the boundaries and assessment of the management unit.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces. Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability. The following resources shall be inventoried: a. Riparian corridors, including water and riparian areas and fish habitat; b. Wetlands;... f. Groundwater Resources;...

The proposal is consistent with Goal 5 requirements for wetlands, riparian corridors, and groundwater resources as demonstrated in the following findings of consistency with the Goal 5 Administrative Rule (OAR Chapter 60 Division 23).

OAR 660-023-0250: APPLICABILITY

(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, Division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section "initiated" means that the local government has deemed the PAPA application to be complete.

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if: (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;...

The proposals are consistent with this Rule, as follows:

- The Goal 5 Rule applies to this PAPA (Post Acknowledgment Plan Amendment) because the City and County have updated inventories for wetlands, riparian, and groundwater resources.
- The proposed Comprehensive Plan amendments bring the Comprehensive Plan into compliance with Goal 5 for the updated inventories that the City and County have updated and adopted.
- The proposed Comprehensive Plan amendments bring the City and the County into compliance with Goal 5 for significant groundwater resources.

- The proposed City Code amendments bring the City Code into compliance with Goal 5 for significant wetlands, riparian, and groundwater resources in order to protect these significant Goal 5 resources and address specific requirements of Goal 5.

The City of Florence Significant Wetlands and Riparian Corridors Plan adopted in this proposal as part of the Comprehensive Plan will be implemented in stages. This initial proposal includes adoption of the wetland and riparian inventory for the entire UGB and adoption of Code provisions by the City to protect riparian and wetland areas, pursuant to Statewide Goal 5. Ultimately, the County is required to adopt measures to protect wetland and riparian areas, comparable to the Goal 5 Rule requirements for safe harbor, and that will be accomplished in a separate future action.

In the interim, there is not an imminent threat to significant wetlands and riparian areas in the Florence UGB. Current regulations prohibit new subdivisions and land partitioning prior to annexation, so that major development within the UGB in the future will occur under the City's Code; and the County's Beaches and Dunes Overlay, which covers all the County lands in the UGB through the /U Combining District in Lane Code Chapter 10, requires a case-by-case Preliminary Investigation (LC 10.270-45) to identify, among other issues, "critical fish or wildlife habitat." As an interim measure, this development review process is available to the County to protect wetlands and riparian areas. The existing Lane County Code Chapter 10 requirements that prohibit land divisions prior to annexation and apply the Lane County Beaches and Dunes Overlay which applies specific protections for "critical fish and wildlife habitat is as follows:"

Lane Code Chapter 10: Florence Urban Growth Boundary

10.122-25 Location.

The /U Combining District is for the purpose of reviewing land within those areas that are considered transitional and/or marginal; conditions which could either restrict and/or limit urban and semi-urban uses.

10.122-30 Lot Area. (1) For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the US Environmental Protection Agency in September 1987, no land divisions shall be allowed prior to annexation to the City.

OAR 660-023-0020

STANDARD AND SPECIFIC RULES AND SAFE HARBORS

- (2) **A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow safe harbor requirements rather than addressing certain requirements in the standard Goal 5 process. For example, a jurisdiction may choose to identify "significant" riparian corridors using the safe harbor criteria under OAR 660-023-0090(5) rather than follow the general requirements for de-**

termining "significance" in the standard Goal 5 process under OAR 660-023-0030(4). Similarly, a jurisdiction may adopt a wetlands ordinance that meets the requirements of OAR 660-023-0100(4)(b) in lieu of following the ESEE decision process in OAR 660-023-0040.

The City Code amendments for wetlands and riparian areas are consistent with this Rule because the Limited Protection Program adopted by the City:

- uses the safe harbor process for the riparian inventory for Munsel Creek, the only fish-bearing stream in the inventory, and the standard Goal 5 process under OAR 660-023-0030(4) for determining other significant riparian reaches;
- applies the safe harbor protections in Goal 5 to all significant riparian reaches in the city except the Munsel Creek side channel;
- applies the safe harbor protections to all significant wetlands in the City except where protection of the wetland conflicts with provision of public infrastructure in accordance with the City's adopted Public Facilities Plan;
- uses the ESEE decision process in OAR 660-023-0040 to address conflicts between significant wetlands and public infrastructure and between the significant riparian corridor and existing development along the Munsel Creek side channel

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD)
STATEWIDE PLANNING GOAL 5 AND
DEPARTMENT OF STATE LANDS (DSL) ADMINISTRATIVE RULES: WETLANDS**

DLCD: OAR 660-023-0100

(2)The standard inventory process requirements in OAR 660-023-0030 do not apply to wetlands. Instead, local governments shall follow the requirements of section (3) of this rule in order to inventory and determine significant wetlands.

(3) For areas inside urban growth boundaries (UGBs) and urban unincorporated communities (UUCs), local governments shall:

- (a) Conduct a local wetlands inventory (LWI) using the standards and procedures of OAR 141-086-0110 through 141-086-0240 and adopt the LWI as part of the comprehensive plan or as a land use regulation; and**
- (b) Determine which wetlands on the LWI are "significant wetlands" using the criteria adopted by the Division of State Lands (DSL) pursuant to ORS 197.279(3)(b) and adopt the list of significant wetlands as part of the comprehensive plan or as a land use regulation.**

ORS 197.279

Approved wetland conservation plans comply with goals; exception; rules. (1) Wetland conservation plans approved by the Director of the Department of State Lands pursuant to ORS chapter 196 shall be deemed to comply with the requirements of statewide planning goals relating to other than estuarine wet-

lands for those areas, uses and activities which are regulated by the wetland conservation plans.

(3) The department shall adopt by rule:

(b) Criteria for cities and counties to use to determine when a wetland is a significant wetland. [1989 c.837 §25; 1995 c.472 §2]

DSL:

OAR 141-086-0180: PURPOSE

Pursuant to ORS 196.674 pertaining to the Statewide Wetlands Inventory (SWI), these rules establish a system for uniform wetland identification and comprehensive mapping. These rules also establish wetlands inventory standards for cities or counties developing a wetland conservation plan (WCP) pursuant to ORS 196.678. A Local Wetlands Inventory (LWI) is developed for all or a portion of a city or county according to the standards and guidelines contained in these rules (OAR 141-086-0180 through 141-086-0240).

OAR 141-086-0185: APPLICABILITY

(1) Once approved by the Department of State Lands (Department), the LWI must be used in place of the National Wetlands Inventory (NWI) and is incorporated into the SWI.

(2) The approved LWI must be used by cities and counties in lieu of the NWI for notifying the Department of land use applications affecting mapped wetlands and other waters (ORS 215.418 and 227.350).

(3) An LWI fulfills the wetlands inventory requirements for Goal 5 and Goal 17 (OAR 660-015 and 660-023). An LWI that meets the additional WCP requirements specified in these rules must be used as the wetlands inventory basis for a WCP.

(4) A wetland function and condition assessment of mapped wetlands must be conducted as part of the LWI using the Oregon Freshwater Wetland Assessment Methodology (OFWAM) published by the Department in 1996. An equivalent functional assessment methodology may be used or adjustments may be made to OFWAM upon written approval by the Director. The assessment results are used to determine the relative quality (functions, values, and condition) of the mapped wetlands and to designate significant wetlands (OAR 141-086-0300 through 141-086-0350) as required for Goal 5, or to assess wetland functions and values for a WCP.

(5) An LWI is used by the Department, other agencies and the public to help determine if wetlands or other waters are present on particular land parcels.

(6) An LWI provides information for planning purposes on the location of potentially regulated wetlands and other waters such as lakes and streams, but is not of sufficient detail for permitting purposes under the state Removal-Fill Law (ORS 196.800 through 196.990)....

(7) All wetlands inventory procedures and products are subject to review and approval by the Department before the products:

(a) Are incorporated into the SWI;

- (b) Can be used in lieu of the NWI for Wetland Land Use Notification purposes; or
- (c) Can be used by a city or county for Goal 5, Goal 17 or WCP purposes.

OAR 141-086-0350: LOCALLY SIGNIFICANT WETLAND CRITERIA

2) Mandatory LSW Criteria. A local government shall identify a wetland as locally significant if it meets one or more of the following criteria:

(a) The wetland performs any of the following functions at the levels indicated below using the Oregon Freshwater Wetland Assessment Methodology:

- (A) "Diverse" wildlife habitat; or**
- (B) "Intact" fish habitat; or**
- (C) "Intact" water quality function; or**
- (D) "Intact" hydrologic control function.**

(b) The wetland or a portion of the wetland occurs within a horizontal distance less than one-fourth mile from a water body listed by the Department of Environmental Quality as a water quality limited water body (303 (d) list), and the wetland's water quality function is described as "intact" or "impacted or degraded" using OFWAM. The 303(d) list specifies which parameters (e.g., temperature, pH) do not meet state water quality standards for each water body. A local government may determine that a wetland is not significant under this subsection upon documentation that the wetland does not provide water quality improvements for the specified parameter(s).

(c) The wetland contains one or more rare plant communities, as defined in this rule.

(d) The wetland is inhabited by any species listed by the federal government as threatened or endangered, or listed by the state as sensitive, threatened or endangered, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.

(A) The use of the site by listed species must be documented, not anecdotal. Acceptable sources of documentation may include but are not limited to: field observations at the wetland sites during the local wetlands inventory and functional assessments, and existing information on rare species occurrences at agencies such as the Oregon Natural Heritage Program, Oregon Department of Fish and Wildlife, Oregon Department of Agriculture and the U.S. Fish and Wildlife Service.

(B) Input originating from other locally knowledgeable sources constitutes "documentation" if verified by one of the above agencies or a university or college reference collection.

(e) The wetland has a direct surface water connection to a stream segment mapped by the Oregon Department of Fish and Wildlife as habitat for indigenous anadromous salmonids, and the wetland is determined to have "intact" or "impacted or degraded" fish habitat function using OFWAM.

(3) Optional LSW Criteria. At the discretion of the local government, wetlands that meet one or more of the following criteria may be identified as locally significant wetlands:

(a) The wetland represents a locally unique native plant community: wetland is or contains the only representative of a particular native wetland plant community in the UGB/UUC, which is only applicable if the entire UGB/UUC is inventoried. To be identified as a LSW, such a wetland must also have been assessed to perform at least one of the following functions at the levels indicated below using OFWAM:

(A) Its wildlife habitat descriptor is either "provides diverse habitat", or "provides habitat for some wildlife species"; or

(B) Its fish habitat descriptor is either "intact", or "impacted or degraded"; or

(C) Its water quality function descriptor is either "intact", or "impacted or degraded"; or

(D) Its hydrologic control function descriptor is either "intact", or "impacted or degraded".

(b) The wetland is publicly owned and determined to "have educational uses" using OFWAM, and such use by a school or organization is documented for that site.

The proposed Comprehensive Plan amendments for wetlands are consistent with Administrative Rules for DLCD and DSL because the amendments and the process:

- Amended the acknowledged plan for the area inside the Florence UGB to address the requirements of the OAR following the requirements of section (3) of the rule in order to inventory and determine significant wetlands;
- Conducted a local wetlands inventory (LWI) using the standards and procedures of OAR 141-086-0110 through 141-086-0240 pursuant to ORS 197.279(3)(b);
- Used the Oregon Rapid Wetlands Assessment Protocol (ORWAP), an equivalent functional assessment methodology, in accordance with written approval by the Director of DSL;
- Used the assessment results to determine the relative quality (functions, values, and condition) of the mapped wetlands and to designate significant wetlands (OAR 141-086-0300 through 141-086-0350) as required for Goal 5;
- Will use the DSL-approved LWI for Goal 5 and Goal 17 purposes;
- Adopted the LWI as part of the Comprehensive Plan;
- Determined which wetlands on the LWI are "significant wetlands" using the criteria approved by the Department of State Lands;
- Through adoption of proposed Plan policy, the City and County will use the DSL-approved LWI in lieu of the NWI for notifying the Department of land use applications affecting mapped wetlands and other waters in accordance with ORS 215.418 and 227.350; and

- Through adoption of Code amendments, including consistency Code amendments, the LWI will fulfill the wetlands inventory requirements for Goal 5 and Goal 17, consistent with OAR 660-015 and 660-023.

DLCD: OAR 660-023-0100

- (4) For significant wetlands inside UGBs and UUCs, a local government shall:**
- (a) Complete the Goal 5 process and adopt a program to achieve the goal following the requirements of OAR 660-023-0040 and 660-023-0050; or**
 - (b) Adopt a safe harbor ordinance to protect significant wetlands consistent with this subsection, as follows:**
 - (A) The protection ordinance shall place restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and**
 - (B) The ordinance shall include a variance procedure to consider hardship variances, claims of map error verified by DSL, and reduction or removal of the restrictions under paragraph (A) of this subsection for any lands demonstrated to have been rendered not buildable by application of the ordinance.**

The proposed City Code amendments for significant wetlands are consistent with this Goal 5 requirement because the City completed the Goal 5 process and adopted a program to achieve the Goal following both the safe harbor requirements and the requirements of OAR 660-023-0040 and 660-023-0050 (see finding of consistency with these OAR below), by:

- adopting a Limited Protection Program that applies the safe harbor Goal 5 provisions except where there are conflicts with public infrastructure, and, consistent with OAR 660-023-0040 and 660-023-0050 addresses conflicts, through an ESEE analysis, between public infrastructure and full protection of significant wetlands;
- including standards that place restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and
- including variance procedures to consider hardship variances, claims of map error verified by DSL, and reduction or removal of the restrictions for any lands demonstrated to have been rendered not buildable by application of the standards.

(7) All local governments shall adopt land use regulations that require notification of DSL concerning applications for development permits or other land use decisions affecting wetlands on the inventory, as per ORS 227 .350 and 215.418, or on the SWI as provided in section (5) of this rule.

The proposed Comprehensive Plan amendments are consistent with this administrative rule because the City and County will adopt plan policy to require notification of DSL concerning applications for development permits or other land use decisions affecting wetlands on the inventory.

Goal 5 Administrative Rule for Riparian Areas

OAR 660-023-0090

Riparian Corridors

- (3) Local governments shall inventory and determine significant riparian corridors by following either the safe harbor methodology described in section (5) of this rule or the standard inventory process described in OAR 660-023-0030 as modified by the requirements in section (4) of this rule. The local government may divide the riparian corridor into a series of stream sections (or reaches) and regard these as individual resource sites.
- (4) When following the standard inventory process in OAR 660-023-0030, local governments shall collect information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors. .. Local governments are encouraged, but not required, to conduct field investigations to verify the location, quality, and quantity of resources within the riparian corridor. At a minimum, local governments shall consult the following sources, where available, in order to inventory riparian corridors along rivers, lakes, and streams within the jurisdiction:
- (a) Oregon Department of Forestry stream classification maps;
 - (b) United States Geological Service (USGS) 7.5-minute quadrangle maps;
 - (c) National Wetlands Inventory maps;
 - (d) Oregon Department of Fish and Wildlife (ODFW) maps indicating fish habitat;
 - (e) Federal Emergency Management Agency (FEMA) flood maps; and
 - (f) Aerial photographs.

The Comprehensive Plan and Code amendments are consistent with this Rule because:

- The City and County have inventoried and determined significant riparian corridors by following a combined safe harbor methodology and the standard inventory process described in the Rule, divided the riparian corridor into a series of stream sections (or reaches), and regarded these as individual resource sites.
- In using the standard inventory process in OAR 660-023-0030, the local governments collected information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors; conducted field investigations to verify the location, quality, and quantity of resources within the riparian corridor; and consulted the sources listed in the Rule as well as information provided by ODFW and the US National Marine Fisheries Service.

- (5) As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all

fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:..

(b) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank.

(c) Where the riparian corridor includes all or portions of a significant wetland as set out in OAR 660-023-0100, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

- As a safe harbor in order to address the requirements under OAR 660-023-0030, the City and County determined the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance of 50 foot from top of bank from Munsel Creek, the only fish-bearing stream in the inventory which has an average annual stream flow less than 1,000 cfs;
- where the Munsel Creek riparian corridor includes portions of a significant wetland as set out in OAR 660-023-0100, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

(6) Local governments shall develop a program to achieve Goal 5 using either the safe harbor described in section (8) of this rule or the standard Goal 5 ESEE process in OAR 660-023-0040 and 660-023-0050 as modified by section (7) of this rule.

(7) When following the standard ESEE process in OAR 660-023-0040 and 660-023-0050, a local government shall comply with Goal 5 if it identifies at least the following activities as conflicting uses in riparian corridors:

- (a) The permanent alteration of the riparian corridor by placement of structures or impervious surfaces, except for:**
 - (A) Water-dependent or water-related uses; and**
 - (B) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area; and**
- (b) Removal of vegetation in the riparian area, except:**
 - (A) As necessary for restoration activities, such as replacement of vegetation with native riparian species;**
 - (B) As necessary for the development of water-related or water-dependent uses;...**

The Code amendments are consistent with this Rule because the City developed a program to achieve Goal 5 using both the safe harbor and the standard Goal 5 ESEE process that includes the provisions related to the permanent alteration of the riparian corridor by placement of structures or impervious surfaces, except for the uses specified in the Rule.

- (8) As a safe harbor in lieu of following the ESEE process requirements of OAR 660-023-0040 and 660-023-0050, a local government may adopt an ordinance to protect a significant riparian corridor as follows:
- (a) The ordinance shall prevent permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:
 - (A) Streets, roads, and paths;
 - (B) Drainage facilities, utilities, and irrigation pumps;
 - (C) Water-related and water-dependent uses; and
 - (D) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.
 - (b) The ordinance shall contain provisions to control the removal of riparian vegetation, except that the ordinance shall allow:
 - (A) Removal of non-native vegetation and replacement with native plant species; and
 - (B) Removal of vegetation necessary for the development of water-related or water-dependent uses;
 - (d) The ordinance shall include a procedure to consider hardship variances, claims of map error, and reduction or removal of the restrictions under subsections (a) and (b) of this section for any existing lot or parcel demonstrated to have been rendered not buildable by application of the ordinance; ...

The Code amendments and Limited Protection Program comply with this Rule because the Code standards contain all of the required provisions.

Goal 5 Administrative Rules: ESEE Analysis

660-023-0040

ESEE DECISION PROCESS

- (1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:
- (a) Identify conflicting uses;

- (b) Determine the impact area;**
- (c) Analyze the ESEE consequences; and**
- (d) Develop a program to achieve Goal 5.**

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

(3) Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

(4) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

(5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant re-

source sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

The City Code Amendments, ESEE Analysis, and Limited Protection Program in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan) are consistent with this Rule because:

- The 2013 Plan documents the procedures used to complete the Goal 5 process and the 2013 Plan is adopted as part of the Comprehensive Plan.
- The City Code amendments, ESEE, and Limited Protection Program described in the 2013 Plan followed the steps in the Rule, i.e., identified conflicting uses; determined the impact area; analyzed the ESEE consequences; and developed a program to achieve Goal 5.
- The City developed a program to achieve Goal 5 by limiting conflicting uses for significant resource sites; and this decision is based upon and supported by the ESEE analysis in Chapter 3 of the 2013 Plan: ESEE Analysis for Public Facilities and the Munsel Creek Side Channel.
- The decision to limit conflicting uses protects significant wetlands and riparian corridors and is supported by the ESEE analysis.
- The determination was reached that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

OAR 660-023-0050: PROGRAMS TO ACHIEVE GOAL 5

(1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to

OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;

(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or

(c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

(a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and

(b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040 (5) and 660-023-0050(1).

The proposals are in compliance with this Rule because the City will adopt City Code amendments that:

- implement the Limited Protection Program in the 2013 Plan;
- describe the degree of protection intended for each significant resource site;
- clearly identify those conflicting uses that are allowed (public infrastructure in the adopted Public Facilities Plan in significant wetlands and a 50% setback reduction along the Munsel Creek side channel) and the specific standards or limitations that apply to the allowed uses; and the standards are included in zoning measures that allow the conflicting uses. In the case of the side channel, specific criteria for replanting displaced native plants apply.

- contain clear and objective standards (i.e., a 50% setback reduction for the side channel; and to allow public infrastructure in significant wetlands)
- include incentives to encourage preservation, maintenance and restoration of significant wetlands and riparian areas.
- allow for landowners to choose proceeding under either the clear and objective approval process through Administrative Review; or through a Plan Amendment Option or Variance process with a required level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040 (5) and 660-023-0050(1).

OAR 660-023-0140: GROUNDWATER RESOURCES

(2) Local governments shall amend acknowledged plans prior to or at each periodic review in order to inventory and protect significant groundwater resources under Goal 5 only as provided in sections (3) through (5) of this rule. Goal 5 does not apply to other groundwater areas, although other statewide Goals, especially Goals 2, 6, and 11, apply to land use decisions concerning such groundwater areas. Significant groundwater resources are limited to:

(b) Wellhead protection areas, subject to the requirements in sections (4) and (5) of this rule instead of the requirements in OAR 660-023-0030 through 660-023-0050.

The adoption of the 2013 Aquifer Protection Plan and Comprehensive Plan amendments by the City and the County bring these local governments into compliance with Goal 5 for groundwater resources because:

- The local governments will amend the acknowledged plan to inventory and protect the Wellhead Protection Area, aka Drinking Water Protection Area (DWPA), for the existing wellfield, which is a significant groundwater resource under Goal 5;
- The DWPA for the proposed wellfield is protected under Goals 2, 6, and 11, as demonstrated in these Findings;
- The DWPA for the existing wellfield is a significant groundwater resource subject to the requirements in sections (4) and (5) of this rule instead of the requirements in OAR 660-023-0030 through 660-023-0050.

(4) A local government or water provider may delineate a wellhead protection area for wells or wellfields that serve lands within its jurisdiction. For the delineation of wellhead protection areas, the standards and procedures in OAR chapter 333, division 61 (Oregon Health Division rules) shall apply rather than the standards and procedures of OAR 660-023-0030.

(5) A wellhead protection area is a significant groundwater resource only if the area has been so delineated and either:

(a) The public water system served by the wellhead area has a service population greater than 10,000 or has more than 3,000 service connections and relies

on groundwater from the wellhead area as the primary or secondary source of drinking water; or...

(6) Local governments shall develop programs to resolve conflicts with wellhead protection areas described under section (5) of this rule. In order to resolve conflicts with wellhead protection areas, local governments shall adopt comprehensive plan provisions and land use regulations, consistent with all applicable statewide goals, that:

(a) Reduce the risk of contamination of groundwater, following the standards and requirements of OAR Chapter 340, Division 40; and

(b) Implement wellhead protection plans certified by the Oregon Department of Environmental Quality (DEQ) under OAR 340-040-0180.

DEQ WELLHEAD PROTECTION ADMINISTRATIVE RULES

OAR 340-040-0170

Required Elements of A Wellhead Protection Plan

(1) A Wellhead Protection Plan shall contain and address the following seven elements:

(a) Specification of Duties:

(A) The Plan shall identify all the Responsible Management Authorities within a Wellhead Protection Area. The jurisdictional boundaries of each Responsible Management Authority shall be shown on a map;

(B) For each Responsible Management Authority identified, the expectations, their respective responsibilities, and the duties they will perform with regards to implementing the Plan must be identified;

(C) The Plan shall either:

(i) Have all Responsible Management Authorities in the Wellhead Protection Area sign the Wellhead Protection Plan indicating that they will implement the actions outlined for their jurisdiction in the Plan; or

(ii) Describe the procedure used to notify and attempt to involve those Responsible Management Authorities not willing to sign the Plan.

(b) Delineation of Wellhead Protection Areas: Delineation of Wellhead Protection Areas shall occur as described under Health Division's rules under OAR 333-061-0057(1)(i).

(c) Inventory of Potential Contaminant Sources: After delineation of the Wellhead Protection Area, an inventory identifying the potential sources of contamination within the Wellhead Protection Area shall be completed. The inventory shall be designed to identify:

(A) Past practices which may have resulted in a potential threat to the groundwater;

(B) Those potential sources of contamination presently existing; and

(C) Those potential sources which may exist in the future.

- (d) Management of Potential Sources of Contamination:**
- (A)** For those potential sources of contamination identified under the inventory element of paragraphs (1)(A)(B)(C) of this rule, the Plan shall identify the management action to be employed to reduce the risk of contamination to the groundwater from those source(s) and justification for the proposed management actions and level of protection provided;
 - (B)** The Plan must identify the process used to address unanticipated potential sources of contamination that may locate within the Wellhead Protection Area, how the source will be evaluated for acceptability within the area, and how the management actions identified in the Plan for reducing the risk of contamination will be implemented;
 - (C)** Any management plans that directly regulate farming practices for the purpose of protecting water quality on agricultural lands within a Wellhead Protection Area shall be developed and implemented by the Oregon Department of Agriculture in accordance with Oregon Department of Agriculture authorities.
- (e) Contingency Plan:** Development of contingency plans for Wellhead Protection Areas shall be in accordance with Health Division rules under OAR 333-061-0057(3);
- (f) Siting of New Public Water System Wells or Springs:** Siting of new public water system wells or springs shall be in accordance with Health Division rules under OAR 333-061-0057(2);
- (g) Public Participation:** A description of the public participation efforts shall be included in the Plan, including:
- (A)** Documentation that property owners and residents within the Wellhead Protection Area were notified of the development of a Wellhead Protection Plan. Notification at a minimum shall include publication of the intent to develop a Wellhead Protection Plan in a local newspaper, and a description of the process for developing and participating in the development of the Wellhead Protection Plan;
 - (B)** Formation of a Team to develop the Plan. The Team can either be a new group formed for the specific purpose of developing a Plan or it can be an existing group that is assigned the additional duty of developing a Plan;
 - (C)** Description of steps taken to provide opportunity for various interests within the affected area to participate;
 - (D)** Documentation that all local public hearing procedures were followed in developing and adopting the Plan.

340-040-0180: CERTIFICATION PROCEDURE

- (1)** For a Wellhead Protection Plan to be certified by the Department, the Plan must meet requirements specified in OAR 340-040-0170.
- (2)** The Department shall act as the contact point for development and approval of Wellhead Protection Plans. The Department shall coordinate with other governmental entities so that the Plan is consistent with the require-

ments of those government-mental entities before Department certification of the Plan is granted.

(3) The Health Division shall be responsible for certifying the delineation, and reviewing contingency plans and the new wells elements of the Plan as provided for under OAR 333-061-0020 through OAR 333-061-0065. The Department shall accept the Health Division's recommendations and certification.

(4) After consultation with the Department of Agriculture on agricultural issues, the Department of Land Conservation and Development on land use issues, the Health Division, and other governmental entities as appropriate, the Department shall be responsible for reviewing the remaining elements and giving the overall certification for each local Wellhead Protection Plan if each element is found to be adequately addressed.

(5) Within 60 days of the receipt of a request for certification of a Wellhead Protection Plan, the Department will send a written acknowledgment of receipt of the request and an estimated date for Department review and certification of the Plan.

(6) After certification of the plan, the Department will provide a written certification of completion to all signatories to the Plan.

The proposal is consistent with these rules as demonstrated in the findings below and the text of the proposed Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer (incorporated into these findings) because:

- The proposal amends the acknowledged plan in order to inventory and protect the Drinking Water Protection Area (DWPA) for the City's existing wellfield, which is a significant groundwater resource under Statewide Planning Goal 5.
- The City delineated the wellhead protection area for the wellfields that serve lands within its jurisdiction in accordance with the standards and procedures in OAR Chapter 333, Division 61; and the Oregon Health Authority certified the delineations as follows:

“The delineation of the capture zones for the current City of Florence wellfield meets the above requirements and is therefore certified collectively as Oregon Health Authority Drinking Water Program (OHA DWP) Delineation Certificate #0016. The delineation of capture zones for the proposed wellfield by OHA definition is a provisional delineations and cannot be included as part of this certification. Instead, OHA approves of the use of the provisional delineation for protection of possible future drinking water resources.”

- The DWPA for the proposed wellfield is protected under Goals 2, 6, and 11, in accordance with Goal 5.
- The DWPA for the existing wellfield is a significant groundwater resources because:
 - the DWPA was certified by the Oregon Health Authority consistent with the requirements in sections (4) and (5) of this rule;
 - the City's water system served by the wellhead area has more than 3,000 service connections, and relies on groundwater from the wellhead area as the primary (sole) source of drinking water.

- The City and County have jointly adopted the Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer and Comprehensive Plan policies and the City has adopted a Drinking Water Protection Overlay Zone, consistent with all applicable statewide goals, that reduce the risk of contamination of groundwater, following the standards and requirements of OAR chapter 340, division 40; and implement well-head protection plans certified by the Oregon Department of Environmental Quality (DEQ) under OAR 340-040-0180.

GOAL 6: AIR, WATER, AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

Waste and Process Discharges -- refers to solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or products therefrom. Included here also are indirect sources of air pollution which result in emissions of air contaminants for which the state has established standards.

The proposed Aquifer Protection Plan (Plan), Comprehensive Plan policies, and City Drinking Water Protection Overlay Zone (Overlay) are consistent with and implement this Goal because they maintain and improve the quality of the groundwater resources in the North Florence Sole Source Dunal Aquifer, the sole source of drinking water in Florence, as follows:

- The North Florence Dunal Aquifer was designated a sole source aquifer by the EPA in September 1987. In designating the aquifer sole source, the September 1987 EPA Resource Document states:
“Potential for Contamination: Rapid infiltration rates into the sand cover combined with a shallow water table make the North Florence Dunal Aquifer highly susceptible to contamination from surface activity. Despite the relatively rapid flow of groundwater through the aquifer, water soluble contaminants introduced near the surface may remain in the ground water system for nearly 60 years.¹ Immiscible contaminants, such as petroleum distillates, would spread rapidly if spilled onto the permeable sand cover but would resist flushing by natural ground water flow.

¹ Christensen, R. and Rosenthal, G., 1982, North Florence Dunal Aquifer Study: Lane Council of Governments, Eugene, Oregon, 174 p.

Possible sources of aquifer contamination include fuel storage tank failure, accidental spills of hazardous material transported across the aquifer, septic tank effluent, storm runoff, pesticides, and chemical fertilizers. The lakes located along the eastern margin of the dunal area would suffer from any contaminants introduced into that portion of the aquifer which recharges the lakes. Direct leaching from septic tanks located in sand-covered areas adjacent to the lakes could seriously downgrade the quality of Clear Lake – the only surface source of drinking water presently used in the area.² Localized over-pumping of the aquifer near the ocean could result in saltwater intrusion. However, population projects by the Lane County Planning Staff suggest that such overdrafts are unlikely.”

- The Aquifer Protection Plan contains management strategies such as public education, technical assistance, Comprehensive Plan and City Code amendments, and other management strategies that represent community-based approaches to protect the aquifer from identified existing and future Potential Contaminant Sources, consistent with the Oregon Department of Environmental Quality (DEQ) and Oregon Health Authority Rules for Source Water Protection Plans.
- Proposed Comprehensive Plan policies 6 and 7 address contamination threats from on site septic systems by specifically implementing OAR 340-071-0160 requirements for municipal wastewater systems to serve development within a UGB when the service is physically and legally available as those terms are defined in the OAR:

**“DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION 71
ONSITE WASTEWATER TREATMENT SYSTEMS**

OAR 340-071-0160: Permit Application Procedures -- Construction, Installation, Alteration, and Repair Permits

(2) Application. A completed application for a (septic) construction, installation, alteration, or repair permit must be submitted to the appropriate agent on approved forms with all required exhibits the applicable permit application fee in OAR 340-071-0140(3). Applications that are not completed in accordance with this section will not be accepted for filing. Except as otherwise allowed in this division, the exhibits must include:...

(b) A land use compatibility statement from the appropriate land use authority signifying that the proposed land use is compatible with the Land Conservation and Development Commission-acknowledged comprehensive plan or complies with the statewide planning goals....

(4) Permit denial. The agent must deny a (septic) permit if any of the following occurs.

² Christensen, R., 1985, Phosphorous Accumulation in the Clear Lake Watershed: Lane County Land Management Division of the Department of Public Works, 81 p.

(f) A sewerage system that can serve the proposed sewage flow is both legally and physically available, as described in paragraphs (A) and (B) of this subsection.

(A) Physical availability.

(i) A sewerage system is considered available if topographic or man-made features do not make connection physically impractical and one of the following applies.

(I) For a single family dwelling or other establishment with a maximum projected daily sewage flow not exceeding 899 gallons, the nearest sewerage connection point from the property to be served is within 300 feet.

(II) For a proposed subdivision or group of two to five single family dwellings or other establishment with the equivalent projected daily sewage flow, the nearest sewerage connection point from the property to be served is not further than 200 feet multiplied by the number of dwellings or dwelling equivalents.

(III) For proposed subdivisions or other developments with more than five single family dwellings or equivalent flows the agent will determine sewerage availability.

(B) Legal availability. A sewerage system is deemed legally available if the system is not under a department connection permit moratorium and the sewerage system owner is willing or obligated to provide sewer service.”

- The Drinking Water Protection Overlay Zone protects the City’s proposed wellfield from hazardous materials that could degrade the resource and threaten the availability of the resource to meet the drinking water needs of the City in the future.
- Comprehensive Plan policy 8 provides a process for the City and County to coordinate to help prevent contamination of the proposed wellfield from Dense Non-aqueous Phase Liquids (DNPLs) which can cause the City to abandon the wellfield.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

A. NATURAL HAZARD PLANNING

- 1. Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards.**

- 2. Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards.**

The Code amendments for wetlands and riparian areas amend portions of Chapter 7 of the Code – Special Development Standards – that implement the requirements of Goal 7. The amendments are consistent with this Goal because they protect the flood control functions and values of significant wetlands and riparian areas and they do not affect provisions for other natural hazards.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Comprehensive plans for urban areas shall:

- 1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;**
- 2. Contain policies concerning the economic development opportunities in the community;**
- 3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;**
- 4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.**

The proposals are consistent with this Goal because they do not affect the supply of industrial or commercial sites in the UGB as specifically stated below.

The proposed City Code amendments for wetlands and riparian areas are consistent with Goal 9 because they enhance the economic development potential of employment lands by applying the City's existing Stormwater Buffer Zone to significant wetlands over ½ acre (instead of all wetlands) and to significant riparian areas (instead of all riparian areas); by providing for setback adjustments and Variances when properties are rendered unbuildable; and providing a Plan Amendment Option to address conflicts with the economic development potential of properties.

The proposed Aquifer Protection Plan is consistent with this Goal because it provides for public education and technical assistance to businesses to help them protect the aquifer; and protection of the aquifer, the City's sole drinking water source, is essential for all economic activity in the city. The Overlay Zone does not prohibit specific economic activity; it regulates the use and storage of hazardous materials through future land use permit application processes. No land uses are prohibited by the Overlay and the City's business assistance program (in the Aquifer Protection Plan) is designed so that the City will assist businesses in complying with the requirements of the Overlay.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

The proposal is also consistent with Goal 10 because it does not affect the supply of buildable residential lands: the 2013 Wetland and Riparian Inventory replaces the existing adopted 1997 Inventory and the two are nearly identical in the area covered by the regulations; and the Overlay Zone does not apply to residential land uses.

The proposed City Code amendments for wetlands and riparian areas are consistent with Goal 10 because they enhance development potential of residential lands by applying the City's existing Stormwater Buffer Zone to significant wetlands over ½ acre (instead of all wetlands) and to significant riparian areas (instead of all riparian areas); by providing for setback adjustments and Variances when properties are rendered unbuildable; and providing a Plan Amendment Option to address conflicts with the residential development potential of properties.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The proposals are consistent with Goal 11 because they result in a timely, orderly, and efficient arrangement of public facilities and services for urban development as follows:

- The Limited Protection Program results in an allowance for public facilities that are part of the adopted Public Facilities Plan to be constructed in significant wetlands.
- Public and private facilities are allowed by Goal 5 in significant riparian areas and this is reflected in the proposed Code.
- The proposed wellfield is adopted as part of the Public Facility Plan and the Comprehensive Plan policies, Aquifer Protection Plan, and Overlay Zone protect the proposed wellfield for use by future residents and businesses of Florence.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

Plan and Land Use Regulation Amendments

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**
- (b) Change standards implementing a functional classification system; or**
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:**
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

The proposals are consistent with Goal 12 and these provisions in the Transportation Planning Rule because the proposals do not significantly affect a transportation facility, as follows:

- (a) They will not cause a change in the functional classification of an existing or planned transportation facility;
- (b) they do not change standards implementing a functional classification system; or
- (c) as measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) they do not allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) they do not reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) they do not worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

GOAL 16: ESTUARINE RESOURCES

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

The housekeeping amendment to FCC Title 10 Chapter 19 makes the Code consistent with Statewide Planning Goal 16 by replacing the phrase “and it is not possible to locate the use on an upland site” with “In approving these uses, the City shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses.” The amendment is consistent with the direction in Goal 16:

“Oregon’s Statewide Planning Goals & Guidelines, GOAL 16: ESTUARINE RESOURCES, OAR 660-015-0010(1) Management Units As a minimum, the following kinds of management units shall be established:... 3. Development: ... As appropriate the following uses shall also be permissible in development management units: ... Where consistent with the purposes of this management unit and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and nondependent, nonrelated uses not requiring dredge or fill; mining and mineral extraction; and activities identified in (1) and (2) above shall also be appropriate. In designating areas for these uses, local governments shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses.”

GOAL 17: COASTAL SHORELANDS

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.

The proposals are consistent with Goal 17 as follows:

- The proposals do not affect Goal 17 management units, except that the consistency Code amendment to FCC 10-19-9 Prime Wildlife District makes the Code consistent

with the proposed Comprehensive Plan and Code amendments as well as Statewide Planning Goal 2 (Land Use) and Goal 17 (Coastal Shorelands) by relying on the most recent inventory and assessment data for determining the boundaries and assessment of the management unit.

- The 2013 Plan addresses the significance of wetlands and riparian areas under Statewide Planning Goal 5. Wetlands that are regulated under Statewide Planning Goal 17, Coastal Shorelands, are not subject to Goal 5 significance or protection. In the Florence UGB, Goal 17 resources are identified in the Lane County Coastal Resources Inventory, the Management Unit descriptions in the Florence Comprehensive Plan, and in the Coastal Shorelands standards in Florence City Code Title 10 Chapter 19.
- As provided in Goal 5, the local wetland inventory and assessment (2013 LWI) will be used to update the general location and assessment of the South Heceta Junction Seasonal Lakes Goal 17 wetlands. This is necessary because the 2013 LWI is more current and precise and the general location of these wetlands in the 1978 Management Unit does not align with the general wetland location in the 2013 LWI, as described in detail in the "Statewide Planning Goals 5 and 17" section of Chapter 2 and "Consistency Code Amendments" in Chapter 4 of the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan, proposed for adoption as part of the Comprehensive Plan.

LANE COUNTY RURAL COMPREHENSIVE PLAN – PART 1, SECTION D

D. CITIES, COMMUNITIES AND RURAL LANDS

While the Policies in this document are directed at Lane County government, it is clearly recognized that the County has a responsibility to, and must coordinate efforts closely with, the incorporated cities within its boundaries. Statewide planning law requires that each incorporated city develop and adopt its own land use plan which must itself comply with LCDL Goals. The plan must contain essentially the same elements as the County General Plan, with an additional element of an identified Urban Growth Boundary (required by Goal 14). Future urban growth for each city is to take place within that Boundary. In the case of the Eugene-Springfield Metropolitan Area Plan, a mutual Boundary is adopted by both cities and the County. For all other cities, the County must ratify the cities UGBs by independent evaluation of, and adoption of, appropriate city plan provisions.

Through this method, the County becomes responsible for administering the provisions of city plans within the city UGBs but outside of the corporate city limits. "Joint Agreements for Planning Coordination" drawn up between the County and each city lay the framework for cooperative action in the effort. Policies concerning Goal 14 in this document further indicate County posture toward city plans. County adoption of city plans--or amendments thereto--ensures that conflicts between city plans and County Plan do not readily occur.

The proposal is consistent with the Lane County Rural Comprehensive Plan because Lane County will co-adopt the Comprehensive Plan amendments in Exhibit B.

LANE CODE

Comprehensive Plan

12.050 Method of Adoption and Amendment.

(1) The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance. (2) The Board may amend or supplement the comprehensive plan upon a finding of:

- (a) an error in the plan; or**
- (b) changed circumstances affecting or pertaining to the plan; or**
- (c) a change in public policy; or**
- (d) a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.**

The proposal is consistent with this Lane Code section because the adoption of the amendments to the Florence Comprehensive Plan are by ordinance based on findings of changed circumstances, change in public policy, change in public need related to aquifer protection and wetlands and riparian resources, and housekeeping and consistency amendments.

14.300 De Novo Hearing Procedure.

All applications or appeals, unless otherwise specified, subject to this Section shall be reviewed as follows:

(1) Hearing Deadlines.

(c) An application for review by the Planning Commission and a subsequent action by the Board, if accepted by the Director, shall be scheduled as follows:

- (i) The Planning Commission hearing shall be no sooner than 45 days from the date of application acceptance and no later than 60 days from the date of application acceptance.**
- (ii) The Board hearing shall be no sooner than 60 days from the date of application acceptance and no later than 75 days from the date of application acceptance.**

(2) Publication of Notice. For a zone change application and/or plan amendment application, the Department shall cause to be published in a newspaper of general circulation, at least 21 days in advance of the hearing, a notice of the hearing which contains the information required by LC 14.070(2) above.

The proposal is consistent with this Lane Code section because the adoption of the amendments to the Florence Comprehensive Plan were subject to public hearings before the Planning Commission and Board in accordance with the above schedule; and notice of the plan amendment was published in the Siuslaw News at least 21 days in advance of the hearing, as stated in these findings. The proposed Comprehensive Plan

amendments are legislative and therefore not subject to the quasi-judicial notice requirements of state law otherwise referenced in this Code.

(7) Order of Procedure. In the conduct of a public hearing, and unless otherwise specified by the Approval Authority, the Approval Authority shall:...

The proposal is consistent with this Lane Code section because the adoption of the amendments to the Florence Comprehensive Plan followed the procedures in this section.

(8) Decision and Findings Mailing. Within two days of the date that the written decision adopting findings is signed by the Approval Authority, the Director shall mail to the applicant, and all parties of record, a copy of the decision and findings; or if the decision and findings exceed five pages, the Director shall mail notice of the decision.

The proposal is consistent with this Lane Code section because the adoption of the amendments to the Florence Comprehensive Plan will include notice to the applicant, the City of Florence.

**RURAL COMPREHENSIVE PLAN AMENDMENTS
RURAL COMPREHENSIVE PLAN**

(6) Plan Adoption or Amendment - General Procedures. The Rural Comprehensive Plan, or any component of such Plan, shall be adopted or amended in accordance with the following procedures:

(a) Referral to Planning Commission. Before the Board takes any action on a Rural Comprehensive Plan component, or an amendment to such Plan component, a report and recommendation thereon shall be requested from the County Planning Commission and a reasonable time allowed for the submission of such report and recommendation. In the event the Rural Comprehensive Plan component, or amendment applies to a limited geographic area, only the Planning Commission having jurisdiction of that area need receive such referral.

The proposal is consistent with this Lane Code section because the adoption of the amendments was referred to the Planning Commission for public hearing.

(b) Planning Commission - Hearing and Notice.

(i) The Planning Commission shall hold at least one public hearing before making a recommendation to the Board on a Rural Comprehensive Plan component, or an amendment to such Plan component, and the hearing shall be conducted pursuant to LC 14.300.

The proposal is consistent with this Lane Code section because the Planning Commission held at least one hearing on adoption of the amendments to the Florence

Comprehensive Plan before making a recommendation to the Board and the hearing was conducted pursuant to LC 14.300.

(ii) Notice of the time and place of hearing shall be given, pursuant to LC 14.300.

(iv) The proposed Rural Comprehensive Plan component, or an amendment to such Plan component, shall be on file with the Director and available for public examination for at least 10 days prior to the time set for hearing thereon.

(c) Planning Commission - Consideration With Other Agencies.

(i) In considering a Rural Comprehensive Plan component, or an amendment to such Plan component, the Planning Commission shall take account of and seek to harmonize, within the framework of the needs of the County, the Plans of cities, and the Plans and planning activities of local, state, federal and other public agencies, organizations and bodies within the County and adjacent to it.

(ii) The Planning Commission, during consideration of a Rural Comprehensive Plan component or an amendment to such Plan component, shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens generally to the end that maximum coordination of Plans may be secured.

(iii) Whenever the Planning Commission is considering a Rural Comprehensive Plan component, or an amendment to such Plan component, it shall be referred to the planning agency of every city and county affected to inform them and solicit their comments.

(iv) The provisions of this subsection are directory, not mandatory, and the failure to refer such Plan, or an amendment to such Plan, shall not in any manner affect its validity.

The proposal is consistent with this Lane Code section because the notice and referrals for adoption of the amendments to the Florence Comprehensive Plan were conducted in accordance with this section.

(d) Planning Commission - Recommendation and Record.

(i) Recommendation of the Planning Commission on a Rural Comprehensive Plan component, or an amendment to a Plan component, shall be by resolution of the Commission and carried by the affirmative vote of not less than a majority of its total voting members.

(ii) The record made at the Planning Commission hearings on a Rural Comprehensive Plan component, or an amendment to such Plan component and all materials submitted to or gathered by the Planning Commission for its consideration, shall be forwarded to the Board along with the recommendation.

(e) Board Action - Hearing and Notice.

- (i) After a recommendation has been submitted to the Board by the Planning Commission on the Rural Comprehensive Plan component, or an amendment to such Plan component, all interested persons shall have an opportunity to be heard thereon at a public hearing before the Board conducted pursuant to LC 14.300.
- (ii) Notice of the time and place of the hearing shall be given pursuant to LC 14.300.
- (h) **Method of Adoption and Amendment.**
 - (i) The adoption or amendment of a Rural Comprehensive Plan component shall be by Ordinance.
 - (iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:
 - (aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.
 - (bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:
 - (i-i) necessary to correct an identified error in the application of the Plan; or
 - (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; or
 - (iii-iii) necessary to comply with the mandate of local, state or federal policy or law; or
 - (iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; or
 - (v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

(8) Additional Amendment Provisions. In addition to the general procedures set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components.

- (b) Amendment proposals, either minor or major, may be initiated by the County or by individual application. Individual applications shall be subject to a fee established by the Board and submitted pursuant to LC 14.050.

The proposal is consistent with this Lane Code section because adoption of the amendments to the Florence Comprehensive Plan was supported by a majority of the Lane County Planning Commission. Further, the proposal was adopted by ordinance by the Lane County Board of Commissioners based on findings of changed circumstances, change in public policy, change in public need related to aquifer protection and wetlands and riparian resources, and housekeeping and consistency amendments.

VI. CONCLUSIONS

City of Florence and Lane County Planning Commissions:

The proposed legislative amendments to the Comprehensive Plan in **Exhibit B** are consistent with the Florence Realization 2020 Comprehensive Plan, Florence City Code, Lane County Rural Comprehensive Plan, Lane Code, Oregon Revised Statutes, and Statewide Planning Goals and associated Administrative Rules.

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.

VII. OPTIONS FOR THE PLANNING COMMISSIONS

EXHIBIT B (City of Florence and Lane County):

1. Jointly Approve Exhibit B, as submitted:
 - Florence Planning Commission: Approve Resolution PC 13 03 CPA 01, PC 13 04 TA 01, PC 13 05 ZC 01 as it pertains to Exhibit B to recommend to the Florence City Council adoption of the Comprehensive Plan amendments in Exhibit B.
 - Lane County Planning Commission: Pass a motion to recommend to the Lane County Board of Commissioners (County) adoption of the proposed Comprehensive Plan amendments in Exhibit B.
2. Modify Exhibit B by mutual agreement, amend findings to support modifications, and approve Exhibit B, as modified.
3. Continue the joint hearing to a date certain.
4. Leave the record open in order to allow more time for additional information to be submitted and set a date for a joint meeting for deliberation and action.
5. Deny the application based on findings of non-compliance with criteria and describe the revised findings.

EXHIBIT C (City of Florence):

1. Approve Resolution PC 13 03 CPA 01, PC 13 04 TA 01, PC 13 05 ZC 01 as it pertains to Exhibit C to recommend to the Florence City Council adoption of the Code amendments in Exhibit C.

2. Modify Exhibit C, amend findings to support modifications, and recommend adoption of Exhibit C, as modified.
3. Continue the City's hearing on Exhibit C to a date certain.
4. Leave the record open in order to allow more time for additional information to be submitted and set a date for a meeting for deliberation and action.
5. Deny the application based on findings of non-compliance with criteria and describe the revised findings.

VIII. STAFF RECOMMENDATIONS

- City and County staff recommend approval of Exhibit B.
- City staff recommends approval of Exhibit C.

IX. ATTACHMENTS

Note: The following documents are included in the public record and are available for review at City of Florence Planning Office or on line at:

<http://www.ci.florence.or.us/council/city-councilplanning-commission-work-session>

- Florence Planning Commission Resolution PC 13 03 CPA 01, PC 13 04 TA 01, PC 13 05 ZC 01 **(City only)**
- City of Florence Ordinance No. 2, Series 2013 **(City only)**
- Lane County Ordinance No. PA 1299 **(County only)**
- Exhibit B to City of Florence Ordinance No. 2 Series 2013 and Lane County Ordinance No. PA 1299: Proposed Amendments To The Florence Realization 2020 Comprehensive Plan for Aquifer Protection and Wetlands and Riparian Corridors, April 15, 2013 **(City and County)**
- Exhibit C to City of Florence Ordinance No. 2, Series 2003: Proposed Amendments to the Florence City Code for Aquifer Protection and Wetlands And Riparian Corridors, April 15, 2013 **(City only)**
- 2013 Aquifer Protection Plan for the North Florence Sole Source Dunal Aquifer and Appendices: **(City and County)**
 - A: Surface and Groundwater Monitoring Report and Secondary Data
 - B: Siuslaw Estuary Partnership Public Involvement Plan
 - C: Oregon Water Resources Department construction logs and well reports
 - D: Drinking Water Protection Areas Delineation Report, February 15, 2012, GSI Water Solutions, Inc.
 - E: Other Source Water Assessments: Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, June 2007; and Heceta Water District, 9/11/2001
 - F: EPA-Approved Quality Assurance Project Plan
 - G: 2003 Florence Source Water Assessment
 - H: Options for Responding to Contamination Threats in the North Florence Sole Source Dunal Aquifer

- I: Resource List
 - J: DEQ Hazardous Waste Technical Assistance for Businesses brochure
 - K: Florence Water Management and Conservation Plan, March 2010
 - L: Mutual Emergency Water Agreement between City of Florence and Heceta Water District, July 6, 2010
 - M: Springfield Drinking Water Protection Overlay Zone
- 2013 Florence Area Local Wetlands and Riparian Inventory and Appendices **(City and County)**:
 - A: Figures and Sheets
 - B: Wetland Summary Sheets
 - C: Wetland Determination Data Forms
 - D: ORWAP Answers Database
 - E: DSL Approval of Significance Criteria for Identifying Locally Significant Wetlands
 - F: Riparian Field Forms
 - G: Riparian Reach Summary Sheets
 - 2013 City of Florence Significant Wetlands and Riparian Corridors Plan and Appendices **(City and County)**:
 - A. Existing Policies and Code for Wetlands and Riparian Areas
 - B. Public Involvement Plan, Approved by the Florence Planning Commission, January 12, 2010 and Letters to Property Owners
 - C. Statewide Planning Goal 5 Administrative Rules Related to Wetlands and Riparian Areas
 - D. 2013 Florence Area Local Wetlands and Riparian Inventory and Appendices, Pacific Habitat Services, 2013 (under separate cover, see above)
 - E. Department of State Lands Approvals: Letter from Louise Solliday, Oregon Department of State Lands (DSL), Approving Florence's use of the ORWAP Method, March 29, 2010; and letter approving the wetland significance criteria, June 23, 2012
 - F. Lists and/or maps of planned public infrastructure projects (under separate cover; see adopted Public Facilities Plan)
 - G. RMC-Cs Florentine Estates Planning Commission Resolution 98-6-23-33 and PUD map
 - H. EPA Introduction and User's Guide to Wetland Restoration

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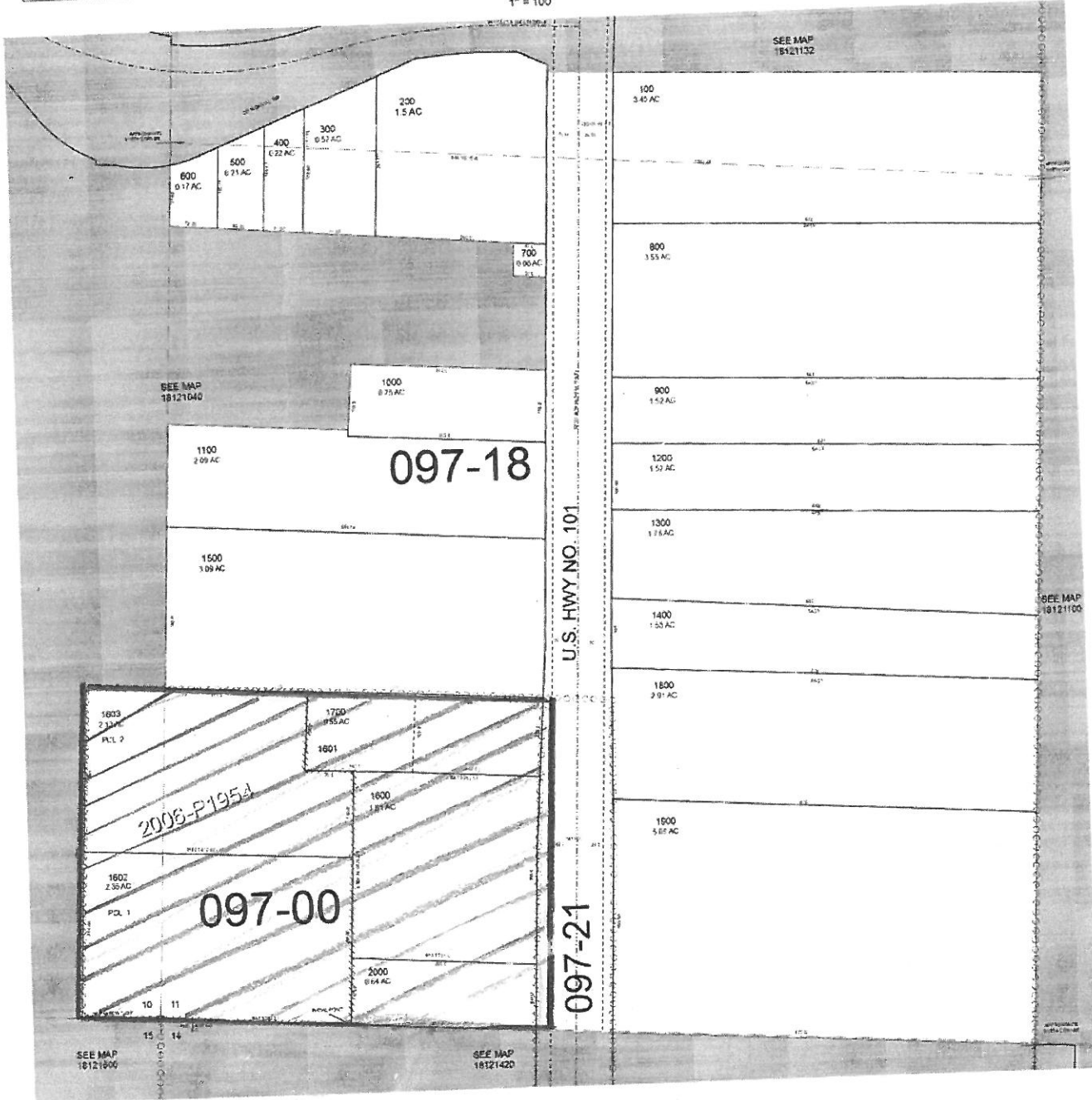
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Affected tax
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Affected tax lots 

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